

AMENDED IN SENATE AUGUST 23, 1996
AMENDED IN SENATE AUGUST 22, 1996
AMENDED IN SENATE AUGUST 20, 1996
AMENDED IN SENATE JUNE 20, 1996
AMENDED IN SENATE JUNE 5, 1996
AMENDED IN SENATE MAY 30, 1996
AMENDED IN SENATE MAY 29, 1996
AMENDED IN ASSEMBLY JANUARY 22, 1996
AMENDED IN ASSEMBLY JANUARY 12, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 583

Introduced by Assembly Member Sher

February 17, 1995

An act *to* amend Sections 16602 and 17900 of the Business and Professions Code, to amend Section 15722 of, to amend and repeal Section 15002 of, to add Chapter 5 (commencing with Section 16100) to, and to repeal Chapter 1 (commencing with Section 15001) of, Title 2 of, the Corporations Code, to amend Section 3940 of the Public Resources Code, and to amend Sections 6829 and 23097 of, to add Sections 6831, 9032, 30353, 32388, 38576, 43447, 45608, 46463, 50138.5, 55208, and 60492 to, and to add Article 4 (commencing with Section 40166) to Chapter 6 of Part 19 of, and Article 4 (commencing

with Section 41127.5) to Chapter 6 of Part 20 of, Division 2 of, the Revenue and Taxation Code, relating to partnerships.

LEGISLATIVE COUNSEL'S DIGEST

AB 583, as amended, Sher. Uniform Partnership Act of 1994.

Under existing law, partnerships are governed by the Uniform Partnership Act.

This bill would enact the Uniform Partnership Act of 1994, as specified, that would apply to partnerships formed on or after January 1, 1997.

This bill would provide that partnerships formed before January 1, 1997, are governed by the Uniform Partnership Act until January 1, 1999, except as specified. This bill would make certain conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 16602 of the Business and
2 Professions Code is amended to read:

3 16602. (a) Any partner may, upon or in anticipation
4 of any of the circumstances described in subdivision (b),
5 agree that he or she will not carry on a similar business
6 within a specified county or counties, city or cities, or a
7 part thereof, where the partnership business has been
8 transacted, so long as any other member of the
9 partnership, or any person deriving title to the business
10 or its goodwill from any such other member of the
11 partnership, carries on a like business therein.

12 (b) Subdivision (a) applies to any of the following
13 circumstances:

14 (1) A dissolution of the partnership.

15 (2) Dissociation of the partner from the partnership.

16 (3) A sale or other disposition of the partner's interest
17 in a partnership.

18 SEC. 1.1. Section 17900 of the Business and
19 Professions Code is amended to read:



1 17900. (a) As used in this chapter, “fictitious business
2 name” means:

3 (1) In the case of an individual, a name that does not
4 include the surname of the individual or a name that
5 suggests the existence of additional owners.

6 (2) In the case of a partnership or other association of
7 persons, other than a limited partnership that has filed a
8 certificate of limited partnership with the Secretary of
9 State pursuant to Section 15621 of the Corporations Code,
10 a foreign limited partnership that has filed an application
11 for registration with the Secretary of State pursuant to
12 Section 15692 of the Corporations Code, a registered
13 limited liability partnership that has filed a registration
14 pursuant to Section 15049 or 16953 of the Corporations
15 Code, or a foreign limited liability partnership that has
16 filed an application for registration pursuant to Section
17 15055 or 16959 of the Corporations Code, a name that does
18 not include the surname of each general partner or a
19 name that suggests the existence of additional owners.

20 (3) In the case of a corporation, any name other than
21 the corporate name stated in its articles of incorporation.

22 (4) In the case of a limited partnership that has filed
23 a certificate of limited partnership with the Secretary of
24 State pursuant to Section 15621 of the Corporations Code
25 and in the case of a foreign limited partnership that has
26 filed an application for registration with the Secretary of
27 State pursuant to Section 15692 of the Corporations Code,
28 any name other than the name of the limited partnership
29 as on file with the Secretary of State.

30 (5) In the case of a limited liability company, any name
31 other than the name stated in its articles of organization
32 and in the case of a foreign limited liability company that
33 has filed an application for registration with the Secretary
34 of State pursuant to Section 17451 of the Corporations
35 Code, any name other than the name of the limited
36 liability company as on file with the Secretary of State.

37 (b) A name that suggests the existence of additional
38 owners within the meaning of subdivision (a) is one
39 which includes such words as “Company,” “&
40 Company,” “& Son,” “& Sons,” “& Associates,”

1 “Brothers,” and the like, but not words that merely
2 describe the business being conducted.

3 SEC. 1.2. Chapter 1 (commencing with Section
4 15001) of Title 2 of the Corporations Code is repealed.

5 SEC. 1.3. Section 15002 of the Corporations Code is
6 amended to read:

7 15002. As used in this act:

8 (a) “Court” includes every court and judge having
9 jurisdiction in the case.

10 (b) “Business” includes every trade, occupation, or
11 profession.

12 (c) “Person” includes individuals, partnerships,
13 limited liability partnerships, limited partnerships,
14 corporations, limited liability companies, and other
15 associations.

16 (d) “Bankrupt” includes a debtor under Chapter 7 of
17 the federal bankruptcy law or an insolvent under any
18 state insolvency act.

19 (e) “Conveyance” includes every assignment, lease,
20 mortgage, or encumbrance.

21 (f) “Real property” includes land and any interest or
22 estate in land.

23 (g) “Professional limited liability partnership
24 services” means the practice of public accountancy or the
25 practice of law.

26 (h) “Licensed person” means any person who is duly
27 licensed, authorized, or registered under the provisions
28 of the Business and Professions Code to provide
29 professional limited liability partnership services or who
30 is lawfully able to render professional limited liability
31 partnership services in this state.

32 (i) (1) “Registered limited liability partnership”
33 means a partnership, other than a limited partnership,
34 formed pursuant to an agreement governed by Article 8
35 (commencing with Section 15047) or Article ~~9.5~~ 10
36 (commencing with Section 16951), that is registered
37 under Section 15049 or Section 16953 and (A) each of the
38 partners of which is a licensed person or a person licensed
39 or authorized to provide professional limited liability
40 partnership services in a jurisdiction or jurisdictions other

1 than this state, (B) is licensed under the laws of the state
2 to engage in the practice of public accountancy or the
3 practice of law, or (C) (i) is related to a registered limited
4 liability partnership that practices public accountancy or,
5 to the extent permitted by the State Bar, practices law or
6 is related to a foreign limited liability partnership and (ii)
7 provides services related or complementary to the
8 professional limited liability partnership services
9 provided by, or provides services or facilities to, that
10 registered limited liability partnership or foreign limited
11 liability partnership.

12 (2) For the purposes of subparagraph (C) of
13 paragraph (1), a partnership is related to a registered
14 limited liability partnership or foreign limited liability
15 partnership (A) if at least a majority of the partners in one
16 partnership are also partners in the other partnership,
17 (B) if at least a majority in interest in each partnership,
18 hold interests in or are members of another person, other
19 than an individual, and each partnership renders services
20 pursuant to an agreement with that other person, or (C)
21 if one partnership, directly or indirectly through one or
22 more intermediaries, controls, is controlled by, or is under
23 common control with, the other partnership.

24 (j) (1) "Foreign limited liability partnership" means
25 a partnership, other than a limited partnership, formed
26 pursuant to an agreement governed by the laws of
27 another jurisdiction and denominated or registered as a
28 limited liability partnership or registered limited liability
29 partnership under the laws of that jurisdiction (A) in
30 which each partner is a licensed person or a person
31 licensed or authorized to provide professional limited
32 liability partnership services in a jurisdiction or
33 jurisdictions other than this state, (B) is licensed under
34 the laws of the state to engage in the practice of public
35 accountancy or the practice of law, or (C) (i) is related
36 to a registered limited liability partnership that practices
37 public accountancy or, to the extent permitted by this
38 State Bar, practices law or is related to a foreign limited
39 liability partnership and (ii) provides services related or
40 complementary to the professional limited liability

1 partnership services provided by, or provides services or
2 facilities to, that registered limited liability partnership or
3 foreign limited liability partnership.

4 (2) For the purposes of subparagraph (C) of
5 paragraph (1), a partnership is related to a registered
6 limited liability partnership or foreign limited liability
7 partnership if (A) at least a majority of the partners in one
8 partnership are also partners in the other partnership, or
9 (B) at least a majority in interest in each partnership, hold
10 interests or are members in another person, except an
11 individual, and each renders services pursuant to an
12 agreement with that other person, or (C) one
13 partnership, directly or indirectly through one or more
14 intermediaries, controls, is controlled by, or is under
15 common control with, the other partnership.

16 (k) This section shall remain in effect only until
17 January 1, 1999, and as of that date is repealed, unless a
18 later enacted statute, that is enacted before January 1,
19 1999, deletes or extends that date.

20 SEC. 1.5. Section 15722 of the Corporations Code is
21 amended to read:

22 15722. In any case not provided for in this chapter,
23 limited partnerships shall be governed in the same
24 manner as general partnerships would be governed
25 pursuant to Section 16111, by the Uniform Partnership
26 Act (Chapter 1 (commencing with Section 15001)), or
27 the Uniform Partnership Act of 1994 (Chapter 5
28 (commencing with Section 16100)).

29 SEC. 2. Chapter 5 (commencing with Section 16100)
30 is added to Title 2 of the Corporations Code, to read:

31

32 CHAPTER 5. UNIFORM PARTNERSHIP ACT OF 1994

33

34 Article 1. General Provisions

35

36 16100. This chapter may be cited as the Uniform
37 Partnership Act of 1994.

38 16101. As used in this chapter, the following terms and
39 phrases have the following meanings:



1 (1) “Business” includes every trade, occupation, and
2 profession.

3 (2) “Debtor in bankruptcy” means a person who is the
4 subject of either of the following:

5 (A) An order for relief under Title 11 of the United
6 States Code or a comparable order under a successor
7 statute of general application.

8 (B) A comparable order under federal, state, or
9 foreign law governing insolvency.

10 (3) “Distribution” means a transfer of money or other
11 property from a partnership to a partner in the partner’s
12 capacity as a partner or to the partner’s transferee.

13 (4) (A) “Foreign limited liability partnership” means
14 a partnership, other than a limited partnership, formed
15 pursuant to an agreement governed by the laws of
16 another jurisdiction and denominated or registered as a
17 limited liability partnership or registered limited liability
18 partnership under the laws of that jurisdiction (i) in
19 which each partner is a licensed person or a person
20 licensed or authorized to provide professional limited
21 liability partnership services in a jurisdiction or
22 jurisdictions other than this state, (ii) which is licensed
23 under the laws of the state to engage in the practice of
24 public accountancy or the practice of law, or (iii) which
25 (I) is related to a registered limited liability partnership
26 that practices public accountancy or, to the extent
27 permitted by this State Bar, practices law or is related to
28 a foreign limited liability partnership and (II) provides
29 services related or complementary to the professional
30 limited liability partnership services provided by, or
31 provides services or facilities to, that registered limited
32 liability partnership or foreign limited liability
33 partnership.

34 (B) For the purposes of clause (iii) of subparagraph
35 (A), a partnership is related to a registered limited
36 liability partnership or foreign limited liability
37 partnership if (i) at least a majority of the partners in one
38 partnership are also partners in the other partnership, or
39 (ii) at least a majority in interest in each partnership hold
40 interests in or are members of another person, except an

1 individual, and each partnership renders services
2 pursuant to an agreement with that other person, or (iii)
3 one partnership, directly or indirectly through one or
4 more intermediaries, controls, is controlled by, or is under
5 common control with, the other partnership.

6 (5) “Licensed person” means any person who is duly
7 licensed, authorized, or registered under the provisions
8 of the Business and Professions Code to provide
9 professional limited liability partnership services or who
10 is lawfully able to render professional limited liability
11 partnership services in this state.

12 (6) (A) “Registered limited liability partnership”
13 means a partnership, other than a limited partnership,
14 formed pursuant to an agreement governed by Article 10
15 (commencing with Section 16951), that is registered
16 under Section 16953 and (i) each of the partners of which
17 is a licensed person or a person licensed or authorized to
18 provide professional limited liability partnership services
19 in a jurisdiction or jurisdictions other than this state, (ii)
20 is licensed under the laws of the state to engage in the
21 practice of public accountancy or the practice of law, or
22 (iii)(I) is related to a registered limited liability
23 partnership that practices public accountancy or, to the
24 extent permitted by the State Bar, practices law or is
25 related to a foreign limited liability partnership and (II)
26 provides services related or complementary to the
27 professional limited liability partnership services
28 provided by, or provides services or facilities to, that
29 registered limited liability partnership or foreign limited
30 liability partnership.

31 (B) For the purposes of clause (iii) of subparagraph
32 (A), a partnership is related to a registered limited
33 liability partnership or foreign limited liability
34 partnership if (i) at least a majority of the partners in one
35 partnership are also partners in the other partnership, or
36 (ii) at least a majority in interest in each partnership hold
37 interests in or are members of another person, other than
38 an individual, and each partnership renders services
39 pursuant to an agreement with that other person, or (iii)
40 one partnership, directly or indirectly through one or

1 more intermediaries, controls, is controlled by, or is under
2 common control with, the other partnership.

3 (7) “Partnership” means an association of two or more
4 persons to carry on as coowners a business for profit
5 formed under Section 16202, predecessor law, or
6 comparable law of another jurisdiction, and includes, for
7 all purposes of the laws of this state, a registered limited
8 liability partnership.

9 (8) “Partnership agreement” means the agreement,
10 whether written, oral, or implied, among the partners
11 concerning the partnership, including amendments to
12 the partnership agreement.

13 (9) “Partnership at will” means a partnership in which
14 the partners have not agreed to remain partners until the
15 expiration of a definite term or the completion of a
16 particular undertaking.

17 (10) “Partnership interest” or “partner’s interest in
18 the partnership” means all of a partner’s interests in the
19 partnership, including the partner’s transferable interest
20 and all management and other rights.

21 (11) “Person” means an individual, corporation,
22 business trust, estate, trust, partnership, limited
23 partnership, limited liability partnership, limited liability
24 company, association, joint venture, government,
25 governmental subdivision, agency, or instrumentality, or
26 any other legal or commercial entity.

27 (12) “Professional limited liability partnership
28 services” means the practice of public accountancy or the
29 practice of law.

30 (13) “Property” means all property, real, personal, or
31 mixed, tangible or intangible, or any interest therein.

32 (14) “State” means a state of the United States, the
33 District of Columbia, the Commonwealth of Puerto Rico,
34 or any territory or insular possession subject to the
35 jurisdiction of the United States.

36 (15) “Statement” means a statement of partnership
37 authority under Section 16303, a statement of denial
38 under Section 16304, a statement of dissociation under
39 Section 16704, a statement of dissolution under Section
40 16805, a statement of conversion under Section 16906, a

1 statement of merger under Section 16915, or an
2 amendment or cancellation of any of the foregoing.

3 (16) “Transfer” includes an assignment, conveyance,
4 lease, mortgage, deed, and encumbrance.

5 16102. (a) A person knows a fact if the person has
6 actual knowledge of it.

7 (b) A person has notice of a fact if any of the following
8 apply:

9 (1) The person knows of it.

10 (2) The person has received a notification of it.

11 (3) The person has reason to know it exists from all of
12 the facts known to the person at the time in question.

13 (4) Subdivision (f) of Section 16953 or subdivision (f)
14 of Section 16959 as applicable.

15 (c) A person notifies or gives a notification to another
16 by taking steps reasonably required to inform the other
17 person in ordinary course, whether or not the other
18 person knows of it.

19 (d) A person receives a notification when either of the
20 following apply:

21 (1) The person knows of the notification.

22 (2) The notification is duly delivered at the person’s
23 place of business or at any other place held out by the
24 person as a place for receiving communications.

25 (e) Except as otherwise provided in subdivision (f), a
26 person other than an individual knows, has notice, or
27 receives a notification of a fact for purposes of a particular
28 transaction when the individual conducting the
29 transaction knows, has notice, or receives a notification of
30 the fact, or in any event when the fact would have been
31 brought to the individual’s attention if the person had
32 exercised reasonable diligence. The person exercises
33 reasonable diligence if it maintains reasonable routines
34 for communicating significant information to the
35 individual conducting the transaction and there is
36 reasonable compliance with the routines. Reasonable
37 diligence does not require an individual acting for the
38 person to communicate information unless the
39 communication is part of the individual’s regular duties
40 or the individual has reason to know of the transaction

1 and that the transaction would be materially affected by
2 the information.

3 (f) A partner's knowledge, notice, or receipt of a
4 notification of a fact relating to the partnership is
5 effective immediately as knowledge by, notice to, or
6 receipt of a notification by the partnership, except in the
7 case of a fraud on the partnership committed by or with
8 the consent of that partner.

9 16103. (a) Except as otherwise provided in
10 subdivision (b), relations among the partners and
11 between the partners and the partnership are governed
12 by the partnership agreement. To the extent the
13 partnership agreement does not otherwise provide, this
14 chapter governs relations among the partners and
15 between the partners and the partnership.

16 (b) The partnership agreement may not do any of the
17 following:

18 (1) Vary the rights and duties under Section 16105
19 except to eliminate the duty to provide copies of
20 statements to all of the partners.

21 (2) Unreasonably restrict the right of access to books
22 and records under subdivision (b) of Section 16403, or the
23 right to be furnished with information under subdivision
24 (c) of Section 16403.

25 (3) Eliminate the duty of loyalty under subdivision (b)
26 of Section 16404 or paragraph (3) of subdivision (b) of
27 Section 16603, but, if not manifestly unreasonable, may do
28 either of the following:

29 (A) The partnership agreement may identify specific
30 types or categories of activities that do not violate the
31 duty of loyalty.

32 (B) All of the partners or a number or percentage
33 specified in the partnership agreement may authorize or
34 ratify, after full disclosure of all material facts, a specific
35 act or transaction that otherwise would violate the duty
36 of loyalty.

37 (4) Unreasonably reduce the duty of care under
38 subdivision (c) of Section 16404 or paragraph (3) of
39 subdivision (b) of Section 16603.

1 (5) Eliminate the obligation of good faith and fair
2 dealing under subdivision (d) of Section 16404, but the
3 partnership agreement may prescribe the standards by
4 which the performance of the obligation is to be
5 measured, if the standards are not manifestly
6 unreasonable.

7 (6) Vary the power to dissociate as a partner under
8 subdivision (a) Section 16602, except to require the
9 notice under paragraph (1) of Section 16601 to be in
10 writing.

11 (7) Vary the right of a court to expel a partner in the
12 events specified in paragraph (5) of Section 16601.

13 (8) Vary the requirement to wind up the partnership
14 business in cases specified in paragraph (4), (5), or (6) of
15 Section 16801.

16 (9) Restrict rights of third parties under this chapter.

17 (10) Vary the law applicable to a registered limited
18 liability partnership under subdivision (b) of Section
19 16106.

20 16104. (a) Unless displaced by particular provisions
21 of this chapter, the principles of law and equity
22 supplement this chapter.

23 (b) If an obligation to pay interest arises under this
24 chapter and the rate is not specified, the rate is that
25 specified in Section 3289 of the Civil Code.

26 16105. (a) A statement may be filed in the office of
27 the Secretary of State. A certified copy of a statement that
28 is filed in an office in another state may be filed in the
29 office of the Secretary of State. Either filing has the effect
30 provided in this chapter with respect to partnership
31 property located in or transactions that occur in this state.

32 (b) A certified copy of a statement that has been filed
33 in the office of the Secretary of State and recorded in the
34 office for recording transfers of real property has the
35 effect provided for recorded statements in this chapter.
36 A recorded statement that is not a certified copy of a
37 statement filed in the office of the Secretary of State does
38 not have the effect provided for recorded statements in
39 this chapter.

1 (c) A statement filed by a partnership shall be
2 executed by at least two partners. Other statements shall
3 be executed by a partner or other person authorized by
4 this chapter. An individual who executes a statement as,
5 or on behalf of, a partner or other person named as a
6 partner in a statement shall personally declare under
7 penalty of perjury that the contents of the statement are
8 accurate.

9 (d) A person authorized by this chapter to file a
10 statement may amend or cancel the statement by filing
11 an amendment or cancellation that names the
12 partnership, identifies the statement, and states the
13 substance of the amendment or cancellation.

14 (e) A person who files a statement pursuant to this
15 section shall promptly send a copy of the statement to
16 every nonfiling partner and to any other person named
17 as a partner in the statement. Failure to send a copy of a
18 statement to a partner or other person does not limit the
19 effectiveness of the statement as to a person not a partner.

20 (f) The Secretary of State may collect a fee for filing
21 or providing a certified copy of a statement. The officer
22 responsible for recording transfers of real property may
23 collect a fee for recording a statement.

24 16106. (a) Except as otherwise provided in
25 subdivision (b) of this section, or Section 16958, the law
26 of the jurisdiction in which a partnership has its chief
27 executive office governs relations among the partners
28 and between the partners and the partnership.

29 (b) With respect to a registered limited liability
30 partnership, the law of this state shall govern relations
31 among the partners and between the partners and the
32 partnership, and the liability of partners for obligations of
33 the partnership.

34 16107. A partnership governed by this chapter is
35 subject to any amendment to or repeal of this chapter.

36 16108. Except with respect to the provisions of this
37 chapter specifically relating to registered limited liability
38 partnerships and foreign limited liability partnerships,
39 this chapter shall be applied and construed to effectuate

1 its general purpose to make uniform the law with respect
2 to the subject of this chapter among states enacting it.

3 16109. The rights and duties of surviving partners, the
4 legal representatives of deceased partners, the creditors
5 of such partners, and the creditors of the partnership
6 created by or defined in this chapter shall be given full
7 force and effect notwithstanding any inconsistent
8 provisions of the Probate Code, but nothing in this
9 chapter shall otherwise affect any provision of the
10 Probate Code.

11 16110. If any provision of this chapter or its
12 application to any person or circumstance is held invalid,
13 the invalidity does not affect other provisions or
14 applications of this chapter that can be given effect
15 without the invalid provision or application, and to this
16 end the provisions of this chapter are severable.

17 16111. (a) Except as provided in Section 16955.5,
18 before January 1, 1999, this chapter governs only a
19 partnership formed (1) on or after the effective date of
20 this chapter, unless that partnership is continuing the
21 business of a dissolved partnership under Section 15041,
22 or (2) before the effective date of this chapter if that
23 partnership elects, in the manner provided in its
24 partnership agreement or by law for amending the
25 partnership agreement, to be governed by this chapter.

26 (b) On and after January 1, 1999, this chapter governs
27 all partnerships.

28 (c) Except with respect to the provisions of this
29 chapter specifically relating to registered limited liability
30 partnerships and foreign limited liability partnerships,
31 the provisions of this chapter relating to the liability of the
32 partnership's partners to third parties apply to limit those
33 partners' liability to a third party who had done business
34 with the partnership within one year preceding the
35 partnership's election to be governed by this chapter,
36 only if the third party knows or has received a notification
37 of the partnership's election to be governed by this
38 chapter.



1 16112. This chapter does not affect an action or
2 proceeding commenced or right accrued before this
3 chapter takes effect.

4 16113. (a) The fee for filing a statement of
5 partnership is seventy dollars (\$70).

6 (b) Unless another fee is specified by law or the law
7 specifies that no fee is to be charged, the fee for filing any
8 partnership statement pursuant to this chapter is thirty
9 dollars (\$30).

10 (c) There is no fee for filing a statement of dissolution
11 for the purposes of canceling a statement of partnership.

12 16114. Unless another fee is specified by law or the law
13 specifies that no fee is to be charged, the fee for
14 acceptance of copies of process against a surviving foreign
15 partnership or limited partnership pursuant to
16 subdivision (b) of Section 16906 is fifty dollars (\$50) for
17 each surviving foreign partnership or limited partnership
18 general partnership upon whom service is sought.

19
20 Article 2. Nature of Partnership

21
22 16201. A partnership is an entity distinct from its
23 partners.

24 16202. (a) Except as otherwise provided in
25 subdivision (b), the association of two or more persons to
26 carry on as coowners a business for profit forms a
27 partnership, whether or not the persons intend to form a
28 partnership.

29 (b) An association formed under a statute other than
30 this chapter, a predecessor statute, or a comparable
31 statute of another jurisdiction is not a partnership under
32 this chapter.

33 (c) In determining whether a partnership is formed,
34 the following rules apply:

35 (1) Joint tenancy, tenancy in common, tenancy by the
36 entireties, joint property, common property, or part
37 ownership does not by itself establish a partnership, even
38 if the coowners share profits made by the use of the
39 property.

1 (2) The sharing of gross returns does not by itself
2 establish a partnership, even if the persons sharing them
3 have a joint or common right or interest in property from
4 which the returns are derived.

5 (3) A person who receives a share of the profits of a
6 business is presumed to be a partner in the business,
7 unless the profits were received for any of the following
8 reasons:

9 (A) In payment of a debt by installments or otherwise.

10 (B) In payment for services as an independent
11 contractor or of wages or other compensation to an
12 employee.

13 (C) In payment of rent.

14 (D) In payment of an annuity or other retirement
15 benefit to a beneficiary, representative, or designee of a
16 deceased or retired partner.

17 (E) In payment of interest or other charge on a loan,
18 even if the amount of payment varies with the profits of
19 the business, including a direct or indirect present or
20 future ownership of the collateral, or rights to income,
21 proceeds, or increase in value derived from the collateral.

22 (F) In payment for the sale of the goodwill of a
23 business or other property by installments or otherwise.

24 16203. Property acquired by a partnership is property
25 of the partnership and not of the partners individually.

26 16204. (a) Property is partnership property if
27 acquired in the name of either of the following:

28 (1) The partnership.

29 (2) One or more partners with an indication in the
30 instrument transferring title to the property of the
31 person's capacity as a partner or of the existence of a
32 partnership but without an indication of the name of the
33 partnership.

34 (b) Property is acquired in the name of the
35 partnership by a transfer to either of the following:

36 (1) The partnership in its name.

37 (2) One or more partners in their capacity as partners
38 in the partnership, if the name of the partnership is
39 indicated in the instrument transferring title to the
40 property.

(c) Property is presumed to be partnership property if purchased with partnership assets, even if not acquired in the name of the partnership or of one or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership.

(d) Property acquired in the name of one or more of the partners, without an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership and without use of partnership assets, is presumed to be separate property, even if used for partnership purposes.

Article 3. Relations of Partners to Persons Dealing with Partnership

16301. Subject to the effect of a statement of partnership authority under Section 16303 both of the following apply:

(1) Each partner is an agent of the partnership for the purpose of its business. An act of a partner, including the execution of an instrument in the partnership name, for apparently carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership binds the partnership, unless the partner had no authority to act for the partnership in the particular matter and the person with whom the partner was dealing knew or had received a notification that the partner lacked authority.

(2) An act of a partner that is not apparently for carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership binds the partnership only if the act was authorized by the other partners.

16302. (a) Partnership property may be transferred as follows:

(1) Subject to the effect of a statement of partnership authority under Section 16303, partnership property held in the name of the partnership may be transferred by an

1 instrument of transfer executed by a partner in the
2 partnership name.

3 (2) Partnership property held in the name of one or
4 more partners with an indication in the instrument
5 transferring the property to them of their capacity as
6 partners or of the existence of a partnership, but without
7 an indication of the name of the partnership, may be
8 transferred by an instrument of transfer executed by the
9 persons in whose name the property is held.

10 (3) Partnership property held in the name of one or
11 more persons other than the partnership, without an
12 indication in the instrument transferring the property to
13 them of their capacity as partners or of the existence of
14 a partnership, may be transferred by an instrument of
15 transfer executed by the persons in whose name the
16 property is held.

17 (b) A partnership may recover partnership property
18 from a transferee only if it proves that execution of the
19 instrument of initial transfer did not bind the partnership
20 under Section 16301 and either of the following applies:

21 (1) As to a subsequent transferee who gave value for
22 property transferred under paragraph (1) or (2) of
23 subdivision (a), proves that the subsequent transferee
24 knew or had received a notification that the person who
25 executed the instrument of initial transfer lacked
26 authority to bind the partnership.

27 (2) As to a transferee who gave value for property
28 transferred under paragraph (3) of subdivision (a),
29 proves that the transferee knew or had received a
30 notification that the property was partnership property
31 and that the person who executed the instrument of
32 initial transfer lacked authority to bind the partnership.

33 (c) A partnership may not recover partnership
34 property from a subsequent transferee if the partnership
35 would not have been entitled to recover the property,
36 under subdivision (b), from any earlier transferee of the
37 property.

38 (d) If a person holds all of the partners' interests in the
39 partnership, all of the partnership property vests in that
40 person. The person may execute a document in the name



1 of the partnership to evidence vesting of the property in
2 that person and may file or record the document.

3 16303. (a) A partnership may file a statement of
4 partnership authority, which is subject to all of the
5 following:

6 (1) The statement shall include all of the following:

7 (A) The name of the partnership.

8 (B) The street address of its chief executive office and
9 of one office in this state, if there is one.

10 (C) The names and mailing addresses of all of the
11 partners or of an agent appointed and maintained by the
12 partnership for the purpose of subdivision (b).

13 (D) The names of the partners authorized to execute
14 an instrument transferring real property held in the
15 name of the partnership.

16 (2) The statement may specify the authority, or
17 limitations on the authority, of some or all of the partners
18 to enter into other transactions on behalf of the
19 partnership and any other matter.

20 (b) If a statement of partnership authority names an
21 agent, the agent shall maintain a list of the names and
22 mailing addresses of all of the partners and make it
23 available to any person on request for good cause shown.

24 (c) If a filed statement of partnership authority is
25 executed pursuant to subdivision (c) of Section 16105 and
26 states the name of the partnership but does not contain
27 all of the other information required by subdivision (a),
28 the statement nevertheless operates with respect to a
29 person not a partner as provided in subdivisions (d) and
30 (e).

31 (d) A filed statement of partnership authority
32 supplements the authority of a partner to enter into
33 transactions on behalf of the partnership as follows:

34 (1) Except for transfers of real property, a grant of
35 authority contained in a filed statement of partnership
36 authority is conclusive in favor of a person who gives
37 value without knowledge to the contrary, so long as and
38 to the extent that a limitation on that authority is not then
39 contained in another filed statement. A filed cancellation

1 of a limitation on authority revives the previous grant of
2 authority.

3 (2) A grant of authority to transfer real property held
4 in the name of the partnership contained in a certified
5 copy of a filed statement of partnership authority
6 recorded in the office for recording transfers of that real
7 property is conclusive in favor of a person who gives value
8 without knowledge to the contrary, so long as and to the
9 extent that a certified copy of a filed statement containing
10 a limitation on that authority is not then of record in the
11 office for recording transfers of that real property. The
12 recording in the office for recording transfers of that real
13 property of a certified copy of a filed cancellation of a
14 limitation on authority revives the previous grant of
15 authority.

16 (e) A person not a partner is deemed to know of a
17 limitation on the authority of a partner to transfer real
18 property held in the name of the partnership if a certified
19 copy of the filed statement containing the limitation on
20 authority is of record in the office for recording transfers
21 of that real property.

22 (f) Except as otherwise provided in subdivisions (d)
23 and (e) and Sections 16704 and 16805, a person not a
24 partner is not deemed to know of a limitation on the
25 authority of a partner merely because the limitation is
26 contained in a filed statement.

27 16304. A partner or other person named as a partner
28 in a filed statement of partnership authority or in a list
29 maintained by an agent pursuant to subdivision (b) of
30 Section 16303 may file a statement of denial stating the
31 name of the partnership as filed with the Secretary of
32 State, any identification number issued by the Secretary
33 of State, and the fact that is being denied, that may
34 include denial of a person's authority or status as a
35 partner. A statement of denial is a limitation on authority
36 as provided in subdivisions (d) and (e) of Section 16303.

37 16305. (a) A partnership is liable for loss or injury
38 caused to a person, or for a penalty incurred, as a result
39 of a wrongful act or omission, or other actionable conduct,



1 of a partner acting in the ordinary course of business of
2 the partnership or with authority of the partnership.

3 (b) If, in the course of the partnership's business or
4 while acting with authority of the partnership, a partner
5 receives or causes the partnership to receive money or
6 property of a person not a partner, and the money or
7 property is misapplied by a partner, the partnership is
8 liable for the loss.

9 16306. (a) Except as otherwise provided in
10 subdivisions (b) and (c), all partners are liable jointly and
11 severally for all obligations of the partnership unless
12 otherwise agreed by the claimant or provided by law.

13 (b) A person admitted as a partner into an existing
14 partnership is not personally liable for any partnership
15 obligation incurred before the person's admission as a
16 partner.

17 (c) Notwithstanding any other section of this chapter,
18 and subject to subdivisions (d), (e), (f), and (h), a
19 partner in a registered limited liability partnership is not
20 liable or accountable, directly or indirectly, including by
21 way of indemnification, contribution, assessment, or
22 otherwise, for debts, obligations, or liabilities of or
23 chargeable to the partnership or another partner in the
24 partnership, whether arising in tort, contract, or
25 otherwise, that are incurred, created, or assumed by the
26 partnership while the partnership is a registered limited
27 liability partnership, by reason of being a partner or
28 acting in the conduct of the business or activities of the
29 partnership.

30 (d) Notwithstanding subdivision (c), all or certain
31 specified partners of a registered limited liability
32 partnership, if the specified partners agree, may be liable
33 in their capacity as partners for all or specified debts,
34 obligations, or liabilities of the registered limited liability
35 partnership if the partners possessing a majority of the
36 interests of the partners in the current profits of the
37 partnership, or a different vote as may be required in the
38 partnership agreement, specifically agreed to the
39 specified debts, obligations, or liabilities in writing, prior
40 to the debt, obligation, or liability being incurred. That

1 specific agreement may be modified or revoked if the
2 partners possessing a majority of the interests of the
3 partners in the current profits of the partnership, or a
4 different vote as may be required in the partnership
5 agreement, agree to the modification or revocation in
6 writing; provided, however, that a modification or
7 revocation shall not affect the liability of a partner for any
8 debts, obligations, or liabilities of a registered limited
9 liability partnership incurred, created, or assumed by the
10 registered limited liability partnership prior to the
11 modification or revocation.

12 (e) Nothing in subdivision (c) shall be construed to
13 affect the liability of a partner of a registered limited
14 liability partnership to third parties for that partner's
15 tortious conduct.

16 (f) The limitation of liability in subdivision (c) shall
17 not apply to claims based upon acts, errors, or omissions
18 arising out of the rendering of professional limited
19 liability partnership services of a registered limited
20 liability partnership providing legal services unless that
21 partnership has a currently effective certificate of
22 registration issued by the State Bar.

23 (g) A partner in a registered limited liability
24 partnership is not a proper party to a proceeding by or
25 against a registered limited liability partnership in which
26 personal liability for partnership debts, obligations, or
27 liabilities is asserted against the partner, unless that
28 partner is personally liable under subdivision (d) or (e).

29 (h) Nothing in this section shall affect or impair the
30 ability of a partner to act as a guarantor or surety for,
31 provide collateral for or otherwise be liable for, the debts,
32 obligations, or liabilities of a registered limited liability
33 partnership.

34 16307. (a) A partnership may sue and be sued in the
35 name of the partnership.

36 (b) Except as otherwise provided in subdivision (g)
37 of Section 16306, an action may be brought against the
38 partnership and any or all of the partners in the same
39 action or in separate actions.

1 (c) A judgment against a partnership is not by itself a
2 judgment against a partner. A judgment against a
3 partnership may not be satisfied from a partner's assets
4 unless there is also a judgment against the partner.

5 (d) A judgment creditor of a partner may not levy
6 execution against the assets of the partner to satisfy a
7 judgment based on a claim against the partnership unless
8 any of the following apply:

9 (1) A judgment based on the same claim has been
10 obtained against the partnership and a writ of execution
11 on the judgment has been returned unsatisfied in whole
12 or in part.

13 (2) The partnership is a debtor in bankruptcy.

14 (3) The partner has agreed that the creditor need not
15 exhaust partnership assets.

16 (4) A court grants permission to the judgment creditor
17 to levy execution against the assets of a partner based on
18 a finding that partnership assets subject to execution are
19 clearly insufficient to satisfy the judgment, that
20 exhaustion of partnership assets is excessively
21 burdensome, or that the grant of permission is an
22 appropriate exercise of the court's equitable powers.

23 (5) Liability is imposed on the partner by law or
24 contract independent of the existence of the partnership.

25 (e) This section applies to any partnership liability or
26 obligation resulting from a representation by a partner or
27 purported partner under Section 16308.

28 16308. Except with respect to registered limited
29 liability partnerships and foreign limited liability
30 partnerships:

31 (a) If a person, by words or conduct, purports to be a
32 partner, or consents to being represented by another as
33 a partner, in a partnership or with one or more persons
34 not partners, the purported partner is liable to a person
35 to whom the representation is made, if that person,
36 relying on the representation, enters into a transaction
37 with the actual or purported partnership. If the
38 representation, either by the purported partner or by a
39 person with the purported partner's consent, is made in
40 a public manner, the purported partner is liable to a

1 person who relies upon the purported partnership even
2 if the purported partner is not aware of being held out as
3 a partner to the claimant. If partnership liability results,
4 the purported partner is liable with respect to that
5 liability as if the purported partner were a partner. If no
6 partnership liability results, the purported partner is
7 liable with respect to that liability jointly and severally
8 with any other person consenting to the representation.

9 (b) If a person is thus represented to be a partner in
10 an existing partnership, or with one or more persons not
11 partners, the purported partner is an agent of persons
12 consenting to the representation to bind them to the
13 same extent and in the same manner as if the purported
14 partner were a partner, with respect to persons who enter
15 into transactions in reliance upon the representation. If
16 all of the partners of the existing partnership consent to
17 the representation, a partnership act or obligation results.
18 If fewer than all of the partners of the existing partnership
19 consent to the representation, the person acting and the
20 partners consenting to the representation are jointly and
21 severally liable.

22 (c) A person is not liable as a partner merely because
23 the person is named by another in a statement of
24 partnership authority.

25 (d) A person does not continue to be liable as a partner
26 merely because of a failure to file a statement of
27 dissociation or to amend a statement of partnership
28 authority to indicate the partner's dissociation from the
29 partnership.

30 (e) Except as otherwise provided in subdivisions (a)
31 and (b), persons who are not partners as to each other are
32 not liable as partners to other persons.

33 Article 4. Relations of Partners to Each Other and to 34 Partnership 35 36

37 16401. (a) Each partner is deemed to have an
38 account that is subject to both of the following:

39 (1) Credited with an amount equal to the money plus
40 the value of any other property, net of the amount of any

1 liabilities, the partner contributes to the partnership and
2 the partner's share of the partnership profits.

3 (2) Subject to Sections 16306 and 16957, charged with
4 an amount equal to the money plus the value of any other
5 property, net of the amount of any liabilities, distributed
6 by the partnership to the partner and the partner's share
7 of the partnership losses.

8 (b) Each partner is entitled to an equal share of the
9 partnership profits and, subject to Sections 16306 and
10 16957, is chargeable with a share of the partnership losses
11 in proportion to the partner's share of the profits.

12 (c) A partnership shall reimburse a partner for
13 payments made and indemnify a partner for liabilities
14 incurred by the partner in the ordinary course of the
15 business of the partnership or for the preservation of its
16 business or property.

17 (d) A partnership shall reimburse a partner for an
18 advance to the partnership beyond the amount of capital
19 the partner agreed to contribute.

20 (e) A payment or advance made by a partner that
21 gives rise to a partnership obligation under subdivision
22 (c) or (d) constitutes a loan to the partnership that
23 accrues interest from the date of the payment or advance.

24 (f) Each partner has equal rights in the management
25 and conduct of the partnership business.

26 (g) A partner may use or possess partnership property
27 only on behalf of the partnership.

28 (h) A partner is not entitled to remuneration for
29 services performed for the partnership, except for
30 reasonable compensation for services rendered in
31 winding up the business of the partnership.

32 (i) A person may become a partner only with the
33 consent of all of the partners.

34 (j) A difference arising as to a matter in the ordinary
35 course of business of a partnership may be decided by a
36 majority of the partners. An act outside the ordinary
37 course of business of a partnership and an amendment to
38 the partnership agreement may be undertaken only with
39 the consent of all of the partners.

1 (k) This section does not affect the obligations of a
2 partnership to other persons under Section 16301.

3 16402. A partner has no right to receive, and may not
4 be required to accept, a distribution in kind.

5 16403. (a) A partnership shall keep its books and
6 records, if any, at its chief executive office.

7 (b) A partnership shall provide partners and their
8 agents and attorneys access to its books and records. It
9 shall provide former partners and their agents and
10 attorneys access to books and records pertaining to the
11 period during which they were partners. The right of
12 access provides the opportunity to inspect and copy books
13 and records during ordinary business hours. A
14 partnership may impose a reasonable charge, covering
15 the costs of labor and material, for copies of documents
16 furnished.

17 (c) Each partner and the partnership shall furnish to
18 a partner, and to the legal representative of a deceased
19 partner or partner under legal disability, both of the
20 following:

21 (1) Without demand, any information concerning the
22 partnership's business and affairs reasonably required for
23 the proper exercise of the partner's rights and duties
24 under the partnership agreement or this chapter; and

25 (2) On demand, any other information concerning the
26 partnership's business and affairs, except to the extent the
27 demand or the information demanded is unreasonable or
28 otherwise improper under the circumstances.

29 16404. (a) The fiduciary duties a partner owes to the
30 partnership and the other partners are the duty of loyalty
31 and the duty of care set forth in subdivisions (b) and (c).

32 (b) A partner's duty of loyalty to the partnership and
33 the other partners includes all of the following:

34 (1) To account to the partnership and hold as trustee
35 for it any property, profit, or benefit derived by the
36 partner in the conduct and winding up of the partnership
37 business or derived from a use by the partner of
38 partnership property or information, including the
39 appropriation of a partnership opportunity.

1 (2) To refrain from dealing with the partnership in the
2 conduct or winding up of the partnership business as or
3 on behalf of a party having an interest adverse to the
4 partnership.

5 (3) To refrain from competing with the partnership in
6 the conduct of the partnership business before the
7 dissolution of the partnership.

8 (c) A partner's duty of care to the partnership and the
9 other partners in the conduct and winding up of the
10 partnership business is limited to refraining from
11 engaging in grossly negligent or reckless conduct,
12 intentional misconduct, or a knowing violation of law.

13 (d) A partner shall discharge the duties to the
14 partnership and the other partners under this chapter or
15 under the partnership agreement and exercise any rights
16 consistently with the obligation of good faith and fair
17 dealing.

18 (e) A partner does not violate a duty or obligation
19 under this chapter or under the partnership agreement
20 merely because the partner's conduct furthers the
21 partner's own interest.

22 (f) A partner may lend money to and transact other
23 business with the partnership, and as to each loan or
24 transaction, the rights and obligations of the partner
25 regarding performance or enforcement are the same as
26 those of a person who is not a partner, subject to other
27 applicable law.

28 (g) This section applies to a person winding up the
29 partnership business as the personal or legal
30 representative of the last surviving partner as if the
31 person were a partner.

32 16405. (a) A partnership may maintain an action
33 against a partner for a breach of the partnership
34 agreement, or for the violation of a duty to the
35 partnership, causing harm to the partnership.

36 (b) A partner may maintain an action against the
37 partnership or another partner for legal or equitable
38 relief, with or without an accounting as to partnership
39 business, to do any of the following:

1 (1) Enforce the partner's rights under the partnership
2 agreement.

3 (2) Enforce the partner's rights under this chapter,
4 including all of the following:

5 (A) The partner's rights under Section 16401, 16403, or
6 16404.

7 (B) The partner's right on dissociation to have the
8 partner's interest in the partnership purchased pursuant
9 to Section 16701 or 16701.5, or to enforce any other right
10 under Article 6 (commencing with Section 16601) or 7
11 (commencing with Section 16701).

12 (C) The partner's right to compel a dissolution and
13 winding up of the partnership business under Section
14 16801 or enforce any other right under Article 8
15 (commencing with Section 16801).

16 (3) Enforce the rights and otherwise protect the
17 interests of the partner, including rights and interests
18 arising independently of the partnership relationship.

19 (c) The accrual of, and any time limitation on, a right
20 of action for a remedy under this section is governed by
21 other law. A right to an accounting upon a dissolution and
22 winding up does not revive a claim barred by law.

23 16406. (a) If a partnership for a definite term or
24 particular undertaking is continued, without an express
25 agreement, after the expiration of the term or completion
26 of the undertaking, the rights and duties of the partners
27 remain the same as they were at the expiration or
28 completion, so far as is consistent with a partnership at
29 will.

30 (b) If the partners, or those of them who habitually
31 acted in the business during the term or undertaking,
32 continue the business without any settlement or
33 liquidation of the partnership, they are presumed to have
34 agreed that the partnership will continue.

35

36 Article 5. Transferees and Creditors of Partner

37

38 16501. A partner is not a coowner of partnership
39 property and has no interest in partnership property that
40 can be transferred, either voluntarily or involuntarily.



1 16502. The only transferable interest of a partner in
2 the partnership is the partner's share of the profits and
3 losses of the partnership and the partner's right to receive
4 distributions. The interest is personal property.

5 16503. (a) A transfer, in whole or in part, of a
6 partner's transferable interest in the partnership is
7 permissible. However, a transfer does not do either of the
8 following:

9 (1) By itself cause the partner's dissociation or a
10 dissolution and winding up of the partnership business.

11 (2) As against the other partners or the partnership,
12 entitle the transferee, during the continuance of the
13 partnership, to participate in the management or
14 conduct of the partnership business, to require access to
15 information concerning partnership transactions, or to
16 inspect or copy the partnership books or records.

17 (b) A transferee of a partner's transferable interest in
18 the partnership has a right to all of the following:

19 (1) To receive, in accordance with the transfer,
20 distributions to which the transferor would otherwise be
21 entitled.

22 (2) To receive upon the dissolution and winding up of
23 the partnership business, in accordance with the transfer,
24 the net amount otherwise distributable to the transferor.

25 (3) To seek under paragraph (6) of Section 16801 a
26 judicial determination that it is equitable to wind up the
27 partnership business.

28 (c) In a dissolution and winding up, a transferee is
29 entitled to an account of partnership transactions only
30 from the date of the latest account agreed to by all of the
31 partners.

32 (d) Upon transfer, the transferor retains the rights and
33 duties of a partner other than the interest in distributions
34 transferred.

35 (e) A partnership need not give effect to a transferee's
36 rights under this section until it has notice of the transfer.

37 (f) A transfer of a partner's transferable interest in the
38 partnership in violation of a restriction on transfer
39 contained in the partnership agreement is ineffective as

1 to a person having notice of the restriction at the time of
2 transfer.

3 16504. (a) On application by a judgment creditor of
4 a partner or of a partner's transferee, a court having
5 jurisdiction may charge the transferable interest of the
6 judgment debtor to satisfy the judgment. The court may
7 appoint a receiver of the share of the distributions due or
8 to become due to the judgment debtor in respect of the
9 partnership and make all other orders, directions,
10 accounts, and inquiries the judgment debtor might have
11 made or that the circumstances of the case may require.

12 (b) A charging order constitutes a lien on the
13 judgment debtor's transferable interest in the
14 partnership. The court may order a foreclosure of the
15 interest subject to the charging order at any time. The
16 purchaser at the foreclosure sale has the rights of a
17 transferee.

18 (c) At any time before foreclosure, an interest charged
19 may be redeemed in any of the following manners:

20 (1) By the judgment debtor.

21 (2) With property other than partnership property, by
22 one or more of the other partners.

23 (3) With partnership property, by one or more of the
24 other partners with the consent of all of the partners
25 whose interests are not so charged.

26 (d) This chapter does not deprive a partner of a right
27 under exemption laws with respect to the partner's
28 interest in the partnership.

29 (e) This section provides the exclusive remedy by
30 which a judgment creditor of a partner or partner's
31 transferee may satisfy a judgment out of the judgment
32 debtor's transferable interest in the partnership.

33

34 Article 6. Partner's Dissociation

35

36 16601. A partner is dissociated from a partnership
37 upon the occurrence of any of the following events:

38 (1) The partnership's having notice of the partner's
39 express will to withdraw as a partner or on a later date
40 specified by the partner.



1 (2) An event agreed to in the partnership agreement
2 as causing the partner's dissociation.

3 (3) The partner's expulsion pursuant to the
4 partnership agreement.

5 (4) The partner's expulsion by the unanimous vote of
6 the other partners if any of the following apply:

7 (A) It is unlawful to carry on the partnership business
8 with that partner.

9 (B) There has been a transfer of all or substantially all
10 of that partner's transferable interest in the partnership,
11 other than a transfer for security purposes, or a court
12 order charging the partner's interest, that has not been
13 foreclosed.

14 (C) Within 90 days after the partnership notifies a
15 corporate partner that it will be expelled because it has
16 filed a certificate of dissolution or the equivalent, its
17 charter has been revoked, or its right to conduct business
18 has been suspended by the jurisdiction of its
19 incorporation, there is no revocation of the certificate of
20 dissolution or no reinstatement of its charter or its right
21 to conduct business.

22 (D) A partnership, limited partnership, or limited
23 liability company that is a partner has been dissolved and
24 its business is being wound up.

25 (5) On application by the partnership or another
26 partner, the partner's expulsion by judicial determination
27 because of any of the following:

28 (A) The partner engaged in wrongful conduct that
29 adversely and materially affected the partnership
30 business.

31 (B) The partner willfully or persistently committed a
32 material breach of the partnership agreement or of a duty
33 owed to the partnership or the other partners under
34 Section 16404.

35 (C) The partner engaged in conduct relating to the
36 partnership business that makes it not reasonably
37 practicable to carry on the business in partnership with
38 the partner.

39 (6) The partner's act or failure to act in any of the
40 following instances:

1 (A) By becoming a debtor in bankruptcy.

2 (B) By executing an assignment for the benefit of
3 creditors.

4 (C) By seeking, consenting to, or acquiescing in the
5 appointment of a trustee, receiver, or liquidator of that
6 partner or of all or substantially all of that partner's
7 property.

8 (D) By failing, within 90 days after the appointment,
9 to have vacated or stayed the appointment of a trustee,
10 receiver, or liquidator of the partner or of all or
11 substantially all of the partner's property obtained
12 without the partner's consent or acquiescence, or failing
13 within 90 days after the expiration of a stay to have the
14 appointment vacated.

15 (7) In the case of a partner who is an individual, by any
16 of the following:

17 (A) The partner's death.

18 (B) The appointment of a guardian or general
19 conservator for the partner.

20 (C) A judicial determination that the partner has
21 otherwise become incapable of performing the partner's
22 duties under the partnership agreement.

23 (8) In the case of a partner that is a trust or is acting as
24 a partner by virtue of being a trustee of a trust,
25 distribution of the trust's entire transferable interest in
26 the partnership, but not merely by reason of the
27 substitution of a successor trustee.

28 (9) In the case of a partner that is an estate or is acting
29 as a partner by virtue of being a personal representative
30 of an estate, distribution of the estate's entire transferable
31 interest in the partnership, but not merely by reason of
32 the substitution of a successor personal representative.

33 (10) Termination of a partner who is not an individual,
34 partnership, corporation, trust, or estate.

35 16602. (a) A partner has the power to dissociate at
36 any time, rightfully or wrongfully, by express will
37 pursuant to paragraph (1) of Section 16601.

38 (b) A partner's dissociation is wrongful only if any of
39 the following apply:

1 (1) It is in breach of an express provision of the
2 partnership agreement.

3 (2) In the case of a partnership for a definite term or
4 particular undertaking, before the expiration of the term
5 or the completion of the undertaking if any of the
6 following apply:

7 (A) The partner withdraws by express will, unless the
8 withdrawal follows within 90 days after another partner's
9 dissociation by death or otherwise under paragraphs (6)
10 to (10), inclusive, of Section 16601 or wrongful
11 dissociation under this subdivision.

12 (B) The partner is expelled by judicial determination
13 under paragraph (5) of Section 16601.

14 (C) The partner is dissociated by becoming a debtor
15 in bankruptcy.

16 (D) In the case of a partner who is not an individual,
17 trust other than a business trust, or estate, the partner is
18 expelled or otherwise dissociated because it willfully
19 dissolved or terminated.

20 (c) A partner who wrongfully dissociates is liable to
21 the partnership and to the other partners for damages
22 caused by the dissociation. The liability is in addition to
23 any other obligation of the partner to the partnership or
24 to the other partners.

25 16603. Upon a partner's dissociation, all of the
26 following apply:

27 (1) The partner's right to participate in the
28 management and conduct of the partnership business
29 terminates.

30 (2) The partner's duty of loyalty under paragraph (3)
31 of subdivision (b) of Section 16404 terminates.

32 (3) The partner's duty of loyalty under paragraphs (1)
33 and (2) of subdivision (b) of Section 16404 and duty of
34 care under subdivision (c) of Section 16404 continue only
35 with regard to matters arising and events occurring
36 before the partner's dissociation.

37



Article 7. Partner's Dissociation When Business Not
Wound Up

16701. Except as provided in Section 16701.5, all of the following shall apply:

(a) If a partner is dissociated from a partnership, the partnership shall cause the dissociated partner's interest in the partnership to be purchased for a buyout price determined pursuant to subdivision (b).

(b) The buyout price of a dissociated partner's interest is the amount that would have been distributable to the dissociating partner under subdivision (b) of Section 16807 if, on the date of dissociation, the assets of the partnership were sold at a price equal to the greater of the liquidation value or the value based on a sale of the entire business as a going concern without the dissociated partner and the partnership was wound up as of that date. Interest shall be paid from the date of dissociation to the date of payment.

(c) Damages for wrongful dissociation under subdivision (b) of Section 16602, and all other amounts owing, whether or not presently due, from the dissociated partner to the partnership, shall be offset against the buyout price. Interest shall be paid from the date the amount owed becomes due to the date of payment.

(d) A partnership shall indemnify a dissociated partner whose interest is being purchased against all partnership liabilities, whether incurred before or after the dissociation, except liabilities incurred by an act of the dissociated partner under Section 16702.

(e) If no agreement for the purchase of a dissociated partner's interest is reached within 120 days after a written demand for payment, the partnership shall pay, or cause to be paid, in cash to the dissociated partner the amount the partnership estimates to be the buyout price and accrued interest, reduced by any offsets and accrued interest under subdivision (c).

(f) If a deferred payment is authorized under subdivision (h), the partnership may tender a written offer to pay the amount it estimates to be the buyout price

1 and accrued interest, reduced by any offsets under
2 subdivision (c), stating the time of payment, the amount
3 and type of security for payment, and the other terms and
4 conditions of the obligation.

5 (g) The payment or tender required by subdivision
6 (e) or (f) shall be accompanied by all of the following:

7 (1) A statement of partnership assets and liabilities as
8 of the date of dissociation.

9 (2) The latest available partnership balance sheet and
10 income statement, if any.

11 (3) An explanation of how the estimated amount of the
12 payment was calculated.

13 (4) Written notice that the payment is in full
14 satisfaction of the obligation to purchase unless, within
15 120 days after the written notice, the dissociated partner
16 commences an action to determine the buyout price, any
17 offsets under subdivision (c), or other terms of the
18 obligation to purchase.

19 (h) A partner who wrongfully dissociates before the
20 expiration of a definite term or the completion of a
21 particular undertaking is not entitled to payment of any
22 portion of the buyout price until the expiration of the
23 term or completion of the undertaking, unless the
24 partner establishes to the satisfaction of the court that
25 earlier payment will not cause undue hardship to the
26 business of the partnership. A deferred payment shall be
27 adequately secured and bear interest.

28 (i) A dissociated partner may maintain an action
29 against the partnership, pursuant to subparagraph (B) of
30 paragraph (2) of subdivision (b) of Section 16405, to
31 determine the buyout price of that partner's interest, any
32 offsets under subdivision (c), or other terms of the
33 obligation to purchase. The action shall be commenced
34 within 120 days after the partnership has tendered
35 payment or an offer to pay or within one year after
36 written demand for payment if no payment or offer to
37 pay is tendered. The court shall determine the buyout
38 price of the dissociated partner's interest, any offset due
39 under subdivision (c), and accrued interest, and enter
40 judgment for any additional payment or refund. If

1 deferred payment is authorized under subdivision (h),
2 the court shall also determine the security for payment
3 and other terms of the obligation to purchase. The court
4 may assess reasonable attorney's fees and the fees and
5 expenses of appraisers or other experts for a party to the
6 action, in amounts the court finds equitable, against a
7 party that the court finds acted arbitrarily, vexatiously, or
8 not in good faith. The finding may be based on the
9 partnership's failure to tender payment or an offer to pay
10 or to comply with subdivision (g).

11 16701.5. (a) Section 16701 shall not apply to any
12 dissociation that occurs within 90 days prior to a
13 dissolution under Section 16801.

14 (b) For dissociations occurring within 90 days prior to
15 the dissolution, both of the following shall apply:

16 (1) All partners who dissociated within 90 days prior to
17 the dissolution shall be treated as partners under Section
18 16807.

19 (2) Any damages for wrongful dissociation under
20 subdivision (b) of Section 16602 and all other amounts
21 owed by the dissociated partner to the partnership,
22 whether or not presently due, shall be taken into account
23 in determining the amount distributable to the
24 dissociated partner under Section 16807.

25 16702. (a) For two years after a partner dissociates,
26 the partnership, including a surviving partnership under
27 Article 9 (commencing with Section 16901), is bound by
28 an act of the dissociated partner that would have bound
29 the partnership under Section 16301 before dissociation
30 only if at the time of entering into the transaction all of
31 the following apply to the other party:

32 (1) The other party reasonably believed that the
33 dissociated partner was then a partner.

34 (2) The other party did not have notice of the
35 partner's dissociation.

36 (3) The other party is not deemed to have had
37 knowledge under subdivision (e) of Section 16303 or
38 notice under subdivision (c) of Section 16704.

39 (b) A dissociated partner is liable to the partnership
40 for any damage caused to the partnership arising from an

1 obligation incurred by the dissociated partner after
2 dissociation for which the partnership is liable under
3 subdivision (a).

4 16703. (a) A partner's dissociation does not of itself
5 discharge the partner's liability for a partnership
6 obligation incurred before dissociation. A dissociated
7 partner is not liable for a partnership obligation incurred
8 after dissociation, except as otherwise provided in
9 subdivision (b).

10 (b) Except for registered limited liability partnerships
11 and foreign limited liability partnerships, a partner who
12 dissociates is liable as a partner to the other party in a
13 transaction entered into by the partnership, or a
14 surviving partnership under Article 9 (commencing with
15 Section 16901), within two years after the partner's
16 dissociation, only if at the time of entering into the
17 transaction all of the following apply to the other party:

18 (1) The other party reasonably believed that the
19 dissociated partner was then a partner.

20 (2) The other party did not have notice of the
21 partner's dissociation.

22 (3) The other party is not deemed to have had
23 knowledge under subdivision (e) of Section 16303 or
24 notice under subdivision (c) of Section 16704.

25 (c) By agreement with the partnership creditor and
26 the partners continuing the business, a dissociated
27 partner may be released from liability for a partnership
28 obligation.

29 (d) A dissociated partner is released from liability for
30 a partnership obligation if a partnership creditor, with
31 notice of the partner's dissociation but without the
32 partner's consent, agrees to a material alteration in the
33 nature or time of payment of a partnership obligation.

34 16704. (a) A dissociated partner or the partnership
35 may file a statement of dissociation stating the name of
36 the partnership as filed with the Secretary of State, any
37 identification number issued by the Secretary of State,
38 and that the partner is dissociated from the partnership.

(b) A statement of dissociation is a limitation on the authority of a dissociated partner for the purposes of subdivisions (d) and (e) of Section 16303.

(c) For the purposes of paragraph (3) of subdivision (a) of Section 16702 and paragraph (3) of subdivision (b) of Section 16703, a person not a partner is deemed to have notice of the dissociation 90 days after the statement of dissociation is filed.

16705. Continued use of a partnership name, or a dissociated partner's name as part thereof, by partners continuing the business does not of itself make the dissociated partner liable for an obligation of the partners or the partnership continuing the business.

Article 8. Winding Up Partnership Business

16801. A partnership is dissolved, and its business shall be wound up, only upon the occurrence of any of the following events:

(1) In a partnership at will, by the express will to dissolve and wind up the partnership business of at least half of the partners, including partners, other than wrongfully dissociating partners, who have dissociated within the preceding 90 days, and for which purpose a dissociation under paragraph (1) of Section 16601 constitutes an expression of that partner's will to dissolve and wind up the partnership business.

(2) In a partnership for a definite term or particular undertaking, when any of the following occurs:

(A) After the expiration of 90 days after a partner's dissociation by death or otherwise under paragraphs (6) to (10), inclusive, of Section 16601, or a partner's wrongful dissociation under subdivision (b) of Section 16602 unless before that time a majority in interest of the partners, including partners who have rightfully dissociated pursuant to subparagraph (A) of paragraph (2) of subdivision (b) of Section 16602, agree to continue the partnership.

(B) The express will of all of the partners to wind up the partnership business.

1 (C) The expiration of the term or the completion of
2 the undertaking.

3 (3) An event agreed to in the partnership agreement
4 resulting in the winding up of the partnership business.

5 (4) An event that makes it unlawful for all or
6 substantially all of the business of the partnership to be
7 continued, but a cure of illegality within 90 days after
8 notice to the partnership of the event is effective
9 retroactively to the date of the event for purposes of this
10 section.

11 (5) On application by a partner, a judicial
12 determination that any of the following apply:

13 (A) The economic purpose of the partnership is likely
14 to be unreasonably frustrated.

15 (B) Another partner has engaged in conduct relating
16 to the partnership business that makes it not reasonably
17 practicable to carry on the business in partnership with
18 that partner.

19 (C) It is not otherwise reasonably practicable to carry
20 on the partnership business in conformity with the
21 partnership agreement.

22 (6) On application by a transferee of a partner's
23 transferable interest, a judicial determination that it is
24 equitable to wind up the partnership business after the
25 expiration of the term or completion of the undertaking,
26 if the partnership was for a definite term or particular
27 undertaking at the time of the transfer or entry of the
28 charging order that gave rise to the transfer.

29 16802. (a) Subject to subdivision (b), a partnership
30 continues after dissolution only for the purpose of
31 winding up its business. The partnership is terminated
32 when the winding up of its business is completed.

33 (b) At any time after the dissolution of a partnership
34 and before the winding up of its business is completed, all
35 of the partners, including any dissociating partner other
36 than a wrongfully dissociating partner, may waive the
37 right to have the partnership's business wound up and the
38 partnership terminated. In that event both of the
39 following apply:

1 (1) The partnership resumes carrying on its business
2 as if dissolution had never occurred, and any liability
3 incurred by the partnership or a partner after the
4 dissolution and before the waiver is determined as if
5 dissolution had never occurred.

6 (2) The rights of a third party accruing under
7 paragraph (1) of Section 16804 or arising out of conduct
8 in reliance on the dissolution before the third party knew
9 or received a notification of the waiver may not be
10 adversely affected.

11 16803. (a) After dissolution, a partner who has not
12 dissociated may participate in winding up the
13 partnership's business, but on application of any partner,
14 partner's legal representative, or transferee, the court,
15 for good cause shown, may order judicial supervision of
16 the winding up.

17 (b) The legal representative of the last surviving
18 partner may wind up a partnership's business.

19 (c) A person winding up a partnership's business may
20 preserve the partnership business or property as a going
21 concern for a reasonable time, prosecute and defend
22 actions and proceedings, whether civil, criminal, or
23 administrative, settle and close the partnership's
24 business, dispose of and transfer the partnership's
25 property, discharge the partnership's liabilities,
26 distribute the assets of the partnership pursuant to
27 Section 16807, settle disputes by mediation or arbitration,
28 and perform other necessary acts.

29 16804. Subject to Section 16805, a partnership is
30 bound by a partner's act after dissolution that is either of
31 the following:

32 (1) Appropriate for winding up the partnership
33 business.

34 (2) Would have bound the partnership under Section
35 16301 before dissolution, if the other party to the
36 transaction did not have notice of the dissolution.

37 16805. (a) After dissolution, a partner who has not
38 wrongfully dissociated may file a statement of dissolution
39 stating the name of the partnership as filed with the
40 Secretary of State, any identification number issued by

1 the Secretary of State, and that the partnership has
2 dissolved and is winding up its business.

3 (b) A statement of dissolution cancels a filed statement
4 of partnership authority for the purposes of subdivision
5 (d) of Section 16303 and is a limitation on authority for the
6 purposes of subdivision (e) of Section 16303.

7 (c) For the purposes of Sections 16301 and 16804, a
8 person not a partner is deemed to have notice of the
9 dissolution and the limitation on the partners' authority
10 as a result of the statement of dissolution 90 days after it
11 is filed.

12 (d) After filing and, if appropriate, recording a
13 statement of dissolution, a dissolved partnership may file
14 and, if appropriate, record a statement of partnership
15 authority that will operate with respect to a person not a
16 partner as provided in subdivisions (d) and (e) of Section
17 16303 in any transaction, whether or not the transaction
18 is appropriate for winding up the partnership business.

19 16806. (a) Except as otherwise provided in
20 subdivision (b) and except for registered limited liability
21 partnerships and foreign limited liability partnerships,
22 after dissolution a partner is liable to the other partners
23 for the partner's share of any partnership liability
24 incurred under Section 16804.

25 (b) Except for registered limited liability partnerships
26 and foreign limited liability partnerships, a partner who,
27 with knowledge of the dissolution, incurs a partnership
28 liability under paragraph (2) of Section 16804 by an act
29 that is not appropriate for winding up the partnership
30 business is liable to the partnership for any damage
31 caused to the partnership arising from the liability.

32 16807. (a) In winding up a partnership's business, the
33 assets of the partnership, including the contributions of
34 the partners required by this section, shall be applied to
35 discharge its obligations to creditors, including, to the
36 extent permitted by law, partners who are creditors. Any
37 surplus shall be applied to pay in cash the net amount
38 distributable to partners in accordance with their right to
39 distributions under subdivision (b).

1 (b) Each partner is entitled to a settlement of all
2 partnership accounts upon winding up the partnership
3 business. In settling accounts among the partners, the
4 profits and losses that result from the liquidation of the
5 partnership assets shall be credited and charged to the
6 partners' accounts. The partnership shall make a
7 distribution to a partner in an amount equal to any excess
8 of the credits over the charges in the partner's account.
9 Except for registered limited liability partnerships and
10 foreign limited liability partnerships, a partner shall
11 contribute to the partnership an amount equal to any
12 excess of the charges over the credits in the partner's
13 account.

14 (c) If a partner fails to contribute the full amount that
15 the partner is obligated to contribute under subdivision
16 (b), all of the other partners shall contribute, in the
17 proportions in which those partners share partnership
18 losses, the additional amount necessary to satisfy the
19 partnership obligations for which they are liable under
20 Section 16306. A partner or partner's legal representative
21 may recover from the other partners any contributions
22 the partner makes to the extent the amount contributed
23 exceeds that partner's share of the partnership
24 obligations for which the partner is personally liable
25 under Section 16306.

26 (d) After the settlement of accounts, each partner
27 shall contribute, in the proportion in which the partner
28 shares partnership losses, the amount necessary to satisfy
29 partnership obligations that were not known at the time
30 of the settlement and for which the partner is personally
31 liable under Section 16306.

32 (e) The estate of a deceased partner is liable for the
33 partner's obligation to contribute to the partnership.

34 (f) An assignee for the benefit of creditors of a
35 partnership or a partner, or a person appointed by a court
36 to represent creditors of a partnership or a partner, may
37 enforce a partner's obligation to contribute to the
38 partnership.
39

Article 9. Conversions and Mergers

16901. In this article, the following terms have the following meanings:

(1) “Constituent other business entity” means any other business entity that is merged with or into one or more limited partnerships and includes a surviving other business entity.

(2) “Constituent partnership” means a partnership that is merged with or into one or more other partnerships or other business entities and includes a surviving partnership.

(3) “Disappearing other business entity” means a constituent other business entity that is not the surviving other business entity.

(4) “Disappearing partnership” means a constituent limited partnership that is not the surviving partnership.

(5) “Domestic” means organized under the laws of this state when used in relation to any partnership, other business entity, or person (other than an individual).

(6) “Foreign other business entity” means any other business entity formed under the laws of any state other than this state or under the laws of the United States or of a foreign country.

(7) “Foreign partnership” means a partnership formed under the laws of any state other than this state or under the laws of a foreign country.

(8) “General partner” means a partner in a partnership and a general partner in a limited partnership.

(9) “Limited liability company” means a limited liability company created under Title 2.5 (commencing with Section 17000), or comparable law of another jurisdiction.

(10) “Limited partner” means a limited partner in a limited partnership.

(11) “Limited partnership” means a limited partnership created under Chapter 3 (commencing with Section 15611), predecessor law, or comparable law of another jurisdiction.

1 (12) “Other business entity” means a limited
2 partnership, limited liability company, or an
3 unincorporated association (other than a nonprofit
4 association), but excluding a partnership.

5 (13) “Partner” includes both a general partner and a
6 limited partner.

7 (14) “Surviving other business entity” means an other
8 business entity into which one or more partnerships are
9 merged.

10 (15) “Surviving partnership” means a partnership into
11 which one or more other partnerships or other business
12 entities are merged.

13 16902. A partnership, other than a registered limited
14 liability partnership, may be converted into a domestic
15 limited partnership or limited liability company or a
16 foreign other business entity pursuant to this article if
17 pursuant to the proposed conversion each of the partners
18 of the converting partnership would receive a
19 percentage interest in the profits and capital of the
20 converted other business entity equal to the partner’s
21 percentage interest in profits and capital of the
22 converting partnership as of the effective time of the
23 conversion. Notwithstanding this section, the conversion
24 of a partnership to a domestic limited partnership or
25 limited liability company or foreign other business entity
26 may be effected only if: (1) the law under which that
27 domestic limited partnership or limited liability company
28 or foreign other business entity will exist expressly
29 permits the formation of that other entity pursuant to a
30 conversion; and (2) the partnership complies with any
31 and all other requirements of such other law that applies
32 to conversion of the other business entity.

33 16903. (a) A partnership that desires to convert to a
34 domestic limited partnership or limited liability company
35 or foreign other business entity shall approve a plan of
36 conversion. The plan of conversion shall state:

37 (1) The terms and conditions of the conversions.

38 (2) The place of the organization of the converted
39 entity and of the converting partnership and the name of

1 the converted entity after conversion, if different from
2 that of the converting partnership.

3 (3) The manner of converting the partnership
4 interests of each of the partners into securities of or
5 interests in the converted entity.

6 (4) The provisions of the governing document for the
7 converted entity, such as a limited partnership
8 agreement or limited liability company articles of
9 organization and operating agreement, to which the
10 holders of interest in the converted entity are to be
11 bound.

12 (5) Any other details or provisions as are required by
13 laws under which the converted entity is organized.

14 (6) Any other details or provisions that are desired.

15 (b) The plan of conversion shall be approved by that
16 number or percentage of partners required by the
17 partnership agreement to approve a conversion of the
18 partnership as set forth in the partnership agreement. If
19 the partnership agreement fails to specify the required
20 partner approval for a conversion of the partnership, then
21 the plan of conversion shall be approved by that number
22 or percentage of partners required by the partnership
23 agreement to approve an amendment to the partnership
24 agreement; provided, however, that if the conversion
25 effects a change for which the partnership agreement
26 requires a greater number or percentage of partners than
27 that required to amend the partnership agreement, then
28 the plan of conversion shall be approved by that greater
29 number or percentage. If the partnership agreement fails
30 to specify the vote required to amend the partnership
31 agreement, then the plan of conversion shall be approved
32 by all partners.

33 (c) If the partnership is converting into a limited
34 partnership, then in addition to the approval of the
35 partners as set forth in subdivision (b), the plan of
36 conversion shall be approved by all partners who will
37 become general partners of the converted limited
38 partnership pursuant to the plan of conversion.

39 (d) All partners of the converting partnership except
40 those that dissociate upon effectiveness of the conversion

1 pursuant to subdivision (e) of Section 16904 shall be
2 deemed parties to any partnership or operating or
3 organic document for the converted entity adopted as
4 part of the plan of conversion, regardless of whether that
5 partner has executed the plan of conversion or the
6 operating or partnership agreement or other organic
7 document for the converted entity. Any adoption of a
8 new partnership, operating agreement, or other organic
9 document made pursuant to the foregoing sentence shall
10 be effective at the effective time or date of the
11 conversion.

12 (e) Notwithstanding its prior approval, a plan of
13 conversion may be amended before the conversion takes
14 effect if the amendment is approved by the partnership
15 in the same manner, and by the same number or
16 percentage of partners, as was required for approval of
17 the original plan of conversion.

18 (f) The partners of a converting partnership may, at
19 any time before the conversion is effective, in their
20 discretion, abandon a conversion, without further
21 approval by the partners, in the same manner, and by the
22 same number or percentage of partners, as was required
23 for approval of the original plan of conversion at any time
24 before the conversion is effective, subject to the
25 contractual rights of third parties.

26 (g) The converted entity shall keep the plan of
27 conversion at: (1) the principal place of business of the
28 converted entity, if the converted entity is a foreign other
29 business entity; or (2) the office at which records are to
30 be kept under Section 15614 if the converted entity is a
31 domestic limited partnership, or at the office at which
32 records are to be kept under Section 17057 if the
33 converted entity is a domestic limited liability company.
34 Upon the request of a partner of a converting
35 partnership, the authorized person on behalf of the
36 converted entity shall promptly deliver to the partner or
37 the holder of interests or other securities, at the expense
38 of the converted entity, a copy of the plan of conversion.
39 A waiver by a partner of the rights provided in this
40 subdivision shall be unenforceable.



1 16904. (a) A conversion into a domestic limited
2 partnership or limited liability company shall become
3 effective upon the earliest date that all of the following
4 shall have occurred:

5 (1) The approval of the plan of conversion by the
6 partners of the converting partnership as provided in
7 Section 16903.

8 (2) The filing of all documents required by law to
9 create the converted limited partnership or limited
10 liability company, which documents shall also contain a
11 statement of conversion, if required under Section 16906.

12 (3) The effective date, if set forth in the plan of
13 conversion, shall have occurred.

14 (b) A copy of the certificate of limited partnership or
15 articles of organization complying with Section 16906, if
16 applicable, duly certified by the Secretary of State, is
17 conclusive evidence of the conversion of the partnership.

18 16905. (a) The conversion of a partnership into a
19 foreign other business entity shall comply with Section
20 16902.

21 (b) If the partnership is converting into a foreign other
22 business entity, then the conversion proceedings shall be
23 in accordance with the laws of the state or place of
24 organization of the foreign other business entity and the
25 conversion shall become effective in accordance with
26 that law.

27 (c) The Secretary of State is the agent for service of
28 process in an action or proceeding against a converted
29 foreign other business entity to enforce an obligation of
30 a partnership that has converted to a foreign entity.
31 Unless a statement of conversion has been filed to effect
32 the conversion, the converted entity shall promptly
33 notify the Secretary of State of the mailing address of its
34 chief executive office and of any change of address. Upon
35 receipt of process, the Secretary of State shall mail a copy
36 of the process to the converted entity.

37 16906. (a) If the converting partnership has filed a
38 statement of partnership authority under Section 16303
39 that is effective at the time of the conversion, then upon
40 conversion to a domestic limited partnership or limited

1 liability company, the certificate of limited partnership or
2 articles of organization filed by the converted entity, as
3 applicable, shall contain or be accompanied by a
4 statement of conversion, in such form as may be
5 prescribed by the Secretary of State. If the converting
6 partnership has not filed a statement of partnership
7 authority under Section 16303 that is effective at the time
8 of the conversion, upon conversion to a domestic limited
9 partnership or limited liability company, the converted
10 entity may, but is not required to file, on or with its
11 certificate of limited partnership or articles of
12 organization, a statement of conversion. A statement of
13 conversion shall be executed and acknowledged by two
14 partners (unless a lesser number is provided in the
15 partnership agreement) and shall set forth all of the
16 following:

17 (1) The name and the Secretary of State's file number,
18 if any, of the converting partnership.

19 (2) A statement that the principal terms of the plan of
20 conversion were approved by a vote of the partners,
21 which equaled or exceeded the vote required under
22 Section 16903.

23 (b) A partnership converting to a foreign other
24 business entity that has filed a statement of partnership
25 authority under Section 16303 that is effective at the time
26 of conversion may file a statement of conversion with the
27 Secretary of State. The statement of conversion shall
28 contain the following:

29 (1) The names of the converting partnership and the
30 converted entity.

31 (2) The street address of the converted entity's chief
32 executive office and of an office in this state, if any.

33 (3) The form of organization of the converted entity.

34 (c) The filing with the Secretary of State of a
35 certificate of limited partnership or articles of
36 organization containing a statement of conversion as set
37 forth in subdivision (a) or a statement of conversion filed
38 pursuant to subdivision (b) shall have the effect of the
39 filing of a cancellation by the converting partnership of
40 any statement of partnership authority filed by it.

1 16907. (a) Whenever a partnership or other business
2 entity having any real property in this state converts into
3 a partnership or an other business entity pursuant to the
4 laws of this state or of the state or place in which the other
5 business entity was organized, and the laws of the state or
6 place of organization (including this state) of the
7 converting partnership or other business entity provide
8 substantially that the conversion of a converting entity
9 vests in the converted partnership or other business
10 entity all the real property of the converting partnership
11 or converting other business entity, the filing for record
12 in the office of the county recorder of any county in this
13 state in which any of the real property of the converting
14 partnership or converting other business entity is located
15 of either (1) a statement of conversion or a certificate of
16 limited partnership or articles of organization complying
17 with Section 16906, in such form as prescribed by the
18 Secretary of State, certified by the Secretary of State, or
19 (2) a copy of a statement of conversion, certificate of
20 limited partnership, or articles of organization containing
21 a statement of conversion or other certificate evidencing
22 the creation of a foreign other business entity by
23 conversion, certified by the Secretary of State or an
24 authorized public official of the state or place pursuant to
25 the laws of which the conversion is effected, shall
26 evidence record ownership in the converted partnership
27 or converted other business entity of all interest of the
28 converting partnership or converting other business
29 entity in and to the real property located in that county.

30 (b) A filed and, if appropriate, recorded statement of
31 conversion, certificate of limited partnership, or articles
32 of organization containing a statement of conversion or
33 other certificate evidencing the creation of an other
34 business entity by conversion executed and declared to
35 be accurate pursuant to subdivision (c) of Section 16105,
36 stating the name of the converting partnership or
37 converting other business entity in whose name property
38 was held before the conversion and the name of the
39 converted entity, but not containing all of the other
40 information required by Section 16906, operates with

1 respect to the entities named to the extent provided in
2 subdivision (a).

3 (c) Recording of a statement of conversion, certificate
4 of limited partnership, or articles of organization
5 containing a statement of conversion, or other certificate
6 evidencing the creation of another business entity by
7 conversion, in accordance with paragraph (1) of Section
8 16902 shall create, in favor of bona fide purchasers or
9 encumbrancers for value, a conclusive presumption that
10 the conversion was validly completed.

11 16908. (a) A domestic limited partnership or limited
12 liability company or a foreign other business entity may
13 be converted to a domestic partnership pursuant to this
14 article, but only if the converting entity is not prohibited
15 by the laws under which it is organized to effect the
16 conversion.

17 (b) An entity that desires to convert into a domestic
18 partnership shall approve a plan of conversion or such
19 instrument as is required to be approved to effect the
20 conversion pursuant to the laws under which the entity
21 is organized.

22 (c) The conversion of a domestic limited partnership
23 or limited liability company or foreign other business
24 entity shall be approved by the number or percentage of
25 the partners, members, or holders of interest of the
26 converting entity as is required by the law under which
27 the entity is organized, or a greater or lesser percentage
28 (subject to applicable laws) as set forth in the limited
29 partnership agreement, articles of organization, or
30 operating agreement or other governing document for
31 the converting entity.

32 (d) The conversion by a domestic limited partnership
33 or limited liability company or a foreign other business
34 entity into a partnership shall be effective under this
35 article at such time as the conversion is effective under
36 the law under which the converting entity is organized.

37 16909. (a) An entity that converts into another entity
38 pursuant to this article is for all purposes the same entity
39 that existed before the conversion.



(b) When a conversion takes effect, all of the following apply:

(1) All the rights and property, whether real, personal, or mixed, of the converting entity remains vested in the converted entity.

(2) All debts, liabilities, and obligations of the converting entity continue as debts, liabilities, and obligations of the converted entity.

(3) All rights of creditors and liens upon the property of the converting entity shall be preserved unimpaired and remain enforceable against the converted entity to the same extent as against the converting entity as if the conversion had not occurred.

(4) Any action or proceeding pending by or against the converting entity may be continued against the converted entity as if the conversion had not occurred.

(c) A partner of a converting partnership is liable for:

(1) All obligations of the converting partnership for which the partner was personally liable before the conversion.

(2) All obligations of the converted entity incurred after the conversion takes effect, but those obligations may be satisfied only out of property of the entity if (A) the converted other business entity is a limited partnership and the partner becomes a limited partner or (B) the converted other business entity is a limited liability company and the partner becomes a member, unless the articles of organization or the operating agreement of the limited liability company provide otherwise.

(d) A partner of a partnership that converted from an other business entity is liable for any and all obligations of the converting other business entity for which the partner was personally liable before the conversion, but only to the extent the partner was liable for the obligation of the converting entity prior to the conversion.

(e) A partner of a converting partnership, who does not vote in favor of the conversion and does not agree to become a partner, member, or holder of interest of the converted other business entity shall have the right to

1 dissociate from the partnership, as of the date the
2 conversion takes effect. Within 10 days after the approval
3 of the conversion by the partners as required under this
4 article, the converting partnership shall send notice of the
5 approval of the conversion to each partner that has not
6 approved the conversion, accompanied by copies of
7 Section 16701 and a brief description of the procedure to
8 be followed under that section if the partner wishes to
9 dissociate from the partnership. A partner that desires to
10 dissociate from the converting partnership shall send
11 written notice of such dissociation within 30 days after the
12 date of the notice of the approval of the conversion. The
13 converting partnership shall cause the partner's interest
14 in the entity to be purchased under Section 16701. The
15 converting partnership is bound under Section 16702 by
16 an act of a general partner dissociated under this
17 subdivision, and the partner is liable under Section 16703
18 for transactions entered into by the converted entity after
19 the conversion takes effect. The dissociation of a partner
20 in connection with a conversion pursuant to the terms of
21 this subdivision shall not be deemed to be a wrongful
22 dissociation under Section 16602.

23 16910. (a) The following entities may be merged
24 pursuant to this article:

25 (1) Two or more partnerships into one partnership.

26 (2) One or more partnerships and one or more other
27 business entities into one of those other business entities.

28 (3) One or more partnerships, other than a limited
29 liability partnership, and one or more other business
30 entities into one partnership.

31 (b) Notwithstanding subdivision (a), the merger of
32 any number of partnerships with any number of other
33 business entities may be effected only if the other
34 business entities that are organized in California are
35 authorized by the laws under which they are organized
36 to effect the merger, and (1) if a domestic partnership is
37 the surviving partnership, the foreign other business
38 entities are not prohibited by the laws under which they
39 are organized from effecting that merger and (2) if a
40 foreign partnership or foreign other business entity is the

1 survivor of the merger, the laws of the jurisdiction under
2 which the survivor is organized authorize that merger.

3 16911. (a) Each partnership and other business
4 entity which desires to merge shall approve an
5 agreement of merger. The agreement of merger shall be
6 approved by the number or percentage of partners
7 specified for merger in the partnership agreement of the
8 constituent partnership. If the partnership agreement
9 fails to specify the required partner approval for merger
10 of the constituent partnership, then the agreement of
11 merger shall be approved by that number or percentage
12 of partners specified by the partnership agreement to
13 approve an amendment to the partnership agreement;
14 provided, however, that if the merger effects a change for
15 which the partnership agreement requires a greater
16 number or percentage of partners than that required to
17 amend the partnership agreement, then the merger shall
18 be approved by that greater number or percentage. If the
19 partnership agreement contains no provision specifying
20 the vote required to amend the partnership agreement,
21 then the agreement of merger must be approved by all
22 the partners. The agreement of merger shall be approved
23 on behalf of each constituent other business entity by
24 those persons required to approve the merger by the laws
25 under which it is organized. Other persons may be parties
26 to the agreement of merger. The agreement of merger
27 shall state:

28 (1) The terms and conditions of the merger.

29 (2) The name and place of organization of the
30 surviving partnership or surviving other business entity,
31 and of each disappearing partnership and disappearing
32 other business entity, and the agreement of merger may
33 change the name of the surviving partnership, which new
34 name may be the same as or similar to the name of a
35 disappearing partnership.

36 (3) The manner of converting the partnership
37 interests of each of the constituent partnerships into
38 interests or other securities of the surviving partnership
39 or surviving other business entity, and if partnership
40 interests of any of the constituent partnerships are not to

1 be converted solely into interest or other securities of the
2 surviving partnership or surviving other business entity,
3 the cash, property, rights, interests, or securities which
4 the holders of the partnership interest are to receive in
5 exchange for the partnership interests, which cash,
6 property, rights, interests, or securities may be in addition
7 to or in lieu of interests of other securities of the surviving
8 partnership or surviving other business entity, or that the
9 partnership interests are canceled without consideration.

10 (4) Any other details or provisions as are required by
11 the laws under which any constituent other business
12 entity is organized.

13 (5) Any other details or provisions that are desired,
14 including, without limitation, a provision for the
15 treatment of fractional partnership interests.

16 (b) If the partnership is merging into a limited
17 partnership, then in addition to the approval of the
18 partners as set forth under subdivision (a), the agreement
19 of merger must be approved by all partners who will
20 become general partners of the surviving limited
21 partnership upon the effectiveness of the merger.

22 (c) Notwithstanding its prior approval, an agreement
23 of merger may be amended before the merger takes
24 effect if the amendment is approved by the partners of
25 each constituent partnership, in the same manner as
26 required for approval of the original agreement of
27 merger, and by each of the constituent other business
28 entities.

29 (d) The partners of a constituent partnership may in
30 their discretion, abandon a merger, subject to the
31 contractual rights, if any, of third parties, including other
32 constituent partnerships and constituent other business
33 entities, if the abandonment is approved by the partners
34 of the constituent partnership in the same manner as
35 required for approval of the original agreement of
36 merger.

37 (e) An agreement of merger approved in accordance
38 with subdivision (a) may (1) effect any amendment to
39 the partnership agreement of any domestic constituent
40 partnership or (2) effect the adoption of a new



1 partnership agreement for a domestic constituent
2 partnership if it is the surviving partnership in the
3 merger. Any amendment to a partnership agreement or
4 adoption of a new partnership agreement made pursuant
5 to the foregoing sentence shall be effective at the
6 effective time or date of the merger.

7 (f) The surviving partnership or surviving other
8 business entity shall keep the agreement of merger at the
9 principal place of business of the surviving entity if the
10 surviving entity is a partnership or a foreign other
11 business entity, at the office referred to in subdivision (a)
12 of Section 15614 if the surviving entity is a domestic
13 limited partnership or at the office referred to in Section
14 17057 if the surviving entity is a domestic limited liability
15 company and, upon the request of a partner of a
16 constituent partnership or a holder of interests or other
17 securities of a constituent other business entity, the
18 authorized person on behalf of the partnership or the
19 surviving other business entity shall promptly deliver to
20 the partner or the holder of interests or other securities,
21 at the expense of the surviving partnership or surviving
22 other business entity, a copy of the agreement of merger.
23 A waiver by a partner or holder of interests or other
24 securities of the rights provided in this subdivision shall
25 be unenforceable.

26 16912. (a) Unless a future effective date or time is
27 provided in a certificate of merger if a certificate of
28 merger is required to be filed under Section 16915 in
29 which event the merger shall be effective at the future
30 effective date or time:

31 (1) A merger in which no domestic other business
32 entity is a party to the merger shall be effective upon the
33 later of any of the following:

34 (A) The approval of the agreement of merger by all
35 parties to the merger as provided in Section 16911.

36 (B) The filing of all documents required by law to be
37 filed as a condition to the effectiveness of the merger; or

38 (C) Any effective date specified in the agreement of
39 merger; and

(2) A merger in which a domestic other business entity is a party to the merger shall be effective upon the filing of the certificate of merger in the office of the Secretary of State.

(b) For all mergers in which a certificate of merger is required to be filed under Section 16915, a copy of the certificate of merger duly certified by the Secretary of State is conclusive evidence of the merger of (A) the constituent partnerships (either by themselves or together with constituent other business entities) into the surviving other business entity, or (B) the constituent partnerships or the constituent other business entities, or both, into the surviving partnership.

16913. (a) The merger of any number of domestic partnerships with any number of foreign partnerships or foreign other business entities shall be required to comply with Section 16910.

(b) If the surviving entity is a domestic partnership or a domestic other business entity, the merger proceedings with respect to that partnership or other business entity and any domestic disappearing partnership shall conform to the provisions of this chapter governing the merger of domestic partnerships, but if the surviving entity is a foreign partnership or a foreign other business entity, then, subject to the requirements of subdivision (d), the merger proceedings may be in accordance with the laws of the state or place of organization of the surviving partnership or surviving other business entity.

(c) If the surviving entity is a domestic other business entity or is a domestic partnership in a merger in which a domestic other business entity is also a party, the certificate of merger shall be filed as provided in subdivision (b) of Section 16915, and thereupon, subject to subdivision (a) of Section 16912, the merger shall be effective as to each domestic constituent partnership and domestic constituent other business entity.

(d) If the surviving entity is a foreign partnership or foreign other business entity, the merger shall become effective in accordance with the law of the jurisdiction in which the surviving partnership or surviving other

1 business entity is organized, but shall be effective as to
2 any domestic disappearing partnership as of the time of
3 effectiveness in the foreign jurisdiction in accordance
4 with Section 16912.

5 16914. (a) When a merger takes effect, all of the
6 following apply:

7 (1) The separate existence of the disappearing
8 partnerships and disappearing other business entities
9 ceases and the surviving partnership or surviving other
10 business entity shall succeed, without other transfer, act
11 or deed, to all the rights and property whether real,
12 personal, or mixed, of each of the disappearing
13 partnerships and disappearing other business entities and
14 shall be subject to all the debts and liabilities of each in the
15 same manner as if the surviving partnership or surviving
16 other business entity had itself incurred them.

17 (2) All rights of creditors and all liens upon the
18 property of each of the constituent partnerships and
19 constituent other business entities shall be preserved
20 unimpaired and may be enforced against the surviving
21 partnership or the surviving other business entity to the
22 same extent as if the debt, liability or duty which gave rise
23 to that lien had been incurred or contracted by it,
24 provided that such liens upon the property of a
25 disappearing partnership or disappearing other business
26 entity shall be limited to the property affected thereby
27 immediately prior to the time the merger is effective.

28 (3) Any action or proceeding pending by or against
29 any disappearing partnership or disappearing other
30 business entity may be prosecuted to judgment, which
31 shall bind the surviving partnership or surviving other
32 business entity, or the surviving partnership or surviving
33 other business entity may be proceeded against or be
34 substituted in the disappearing partnership's or the
35 disappearing other business entity's place.

36 (b) The Secretary of State is the agent for service of
37 process in an action or proceeding against a foreign
38 surviving partnership or foreign surviving other business
39 entity to enforce an obligation of a domestic partnership
40 or domestic other business entity that is a party to a

1 merger. Unless a certificate of merger has been filed to
2 effect the merger, the surviving entity shall promptly
3 notify the Secretary of State of the mailing address of its
4 chief executive office and of any change of address. Upon
5 receipt of process, the Secretary of State shall mail a copy
6 of the process to the foreign surviving partnership or
7 foreign surviving other business entity.

8 (c) A partner of the surviving partnership or surviving
9 limited partnership or a member of the surviving limited
10 liability company is liable for all of the following:

11 (1) All obligations of a party to the merger for which
12 the partner or member was personally liable before the
13 merger.

14 (2) All other obligations of the surviving entity
15 incurred before the merger by a party to the merger, but
16 those obligations may be satisfied only out of property of
17 the entity.

18 (3) All obligations of the surviving entity incurred
19 after the merger takes effect, but those obligations may
20 be satisfied only out of property of the entity if the partner
21 is a limited partner or, unless expressly provided
22 otherwise in the articles of organization, a member of a
23 limited liability company.

24 (d) If the obligations incurred before the merger by a
25 party to the merger are not satisfied out of the property
26 of the surviving partnership or surviving other business
27 entity, the general partners of that party immediately
28 before the effective date of the merger, to the extent such
29 party was a partnership or a limited partnership, shall
30 contribute the amount necessary to satisfy that party's
31 obligations to the surviving entity, in the manner
32 provided in Section 16807 or in the limited partnership
33 act of the jurisdiction in which the party was formed, as
34 the case may be, as if the merged party were dissolved.

35 (e) A partner of a domestic disappearing partnership,
36 who does not vote in favor of the merger and does not
37 agree to become a partner, member or holder of interest
38 of the surviving partnership or surviving other business
39 entity shall have the right to dissociate from the
40 partnership, as of the date the merger takes effect. Within

1 10 days after the approval of the merger by the partners
2 as required under this article, each domestic
3 disappearing partnership shall send notice of the
4 approval of the merger to each partner that has not
5 approved the merger, accompanied by a copy of Section
6 16701 and a brief description of the procedure to be
7 followed under that section if the partner wishes to
8 dissociate from the partnership. A partner that desires to
9 dissociate from a disappearing partnership shall send
10 written notice of such dissociation within 30 days after the
11 date of the notice of the approval of the merger. The
12 disappearing partnership shall cause the partner's
13 interest in the entity to be purchased under Section
14 16701. The surviving entity is bound under Section 16702
15 by an act of a general partner dissociated under this
16 subdivision, and the partner is liable under Section 16703
17 for transactions entered into by the surviving entity after
18 the merger takes effect. The disassociation of a partner in
19 connection with a merger pursuant to the terms of this
20 subdivision shall not be deemed a wrongful disassociation
21 under Section 16602.

22 16915. (a) In a merger involving only partnerships,
23 or in a merger to which a domestic partnership and an
24 other business entity is a party but in which no other
25 domestic other business entity is a party, the surviving
26 partnership or surviving foreign other business entity
27 may file with the Secretary of State a statement that one
28 or more partnerships have merged into the surviving
29 partnership or surviving other business entity. A
30 statement of merger shall contain the following:

31 (1) The name of each partnership or other business
32 entity that is a party to the merger.

33 (2) The name of the surviving entity into which the
34 other partnerships or other business entities where
35 merged.

36 (3) The street address of the surviving entity's chief
37 executive office and of an office in this state, if any.

38 (4) Whether the surviving entity is a partnership or an
39 other business entity, specifying the type of the entity.

1 (b) In a merger involving a domestic partnership in
2 which a domestic other business entity is also a party, after
3 approval of the merger by the constituent partnerships
4 and any constituent other business entities, the
5 constituent partnerships and constituent other business
6 entities shall file a certificate of merger in the office of and
7 on a form prescribed by, the Secretary of State. The
8 certificate of merger shall be executed and
9 acknowledged by each domestic constituent partnership
10 by two partners (unless a lesser number is provided in the
11 partnership agreement) and by each foreign constituent
12 partnership by one or more partners, and by each
13 constituent other business entity by those persons
14 required to execute the certificate of merger by the laws
15 under which the constituent other business entity is
16 organized. The certificate of merger shall set forth all of
17 the following:

18 (1) The names and the Secretary of State's file
19 numbers, if any, of each of the constituent partnerships
20 and constituent other business entities, separately
21 identifying the disappearing partnerships and
22 disappearing other business entities and the surviving
23 partnership or surviving other business entity.

24 (2) If a vote of the partners was required under
25 Section 16911, a statement that the principal terms of the
26 agreement of merger were approved by a vote of the
27 partners, which equaled or exceeded the vote required.

28 (3) If the surviving entity is a domestic partnership
29 and not an other business entity, any change to the
30 information set forth in any filed statement of partnership
31 authority of the surviving partnership resulting from the
32 merger, including any change in the name of the
33 surviving partnership resulting ~~from~~ from the merger.
34 The filing of a certificate of merger setting forth any such
35 changes to any filed statement of partnership authority of
36 the surviving partnership shall have the effect of the filing
37 of a certificate of amendment of the statement of
38 partnership authority by the surviving partnership, and
39 the surviving partnership need not file a certificate of
40 amendment under Section 16015 to reflect those changes.



1 (4) The future effective date or time (which shall be
2 a date or time certain not more than 90 days subsequent
3 to the date of filing) of the merger, if the merger is not
4 to be effective upon the filing of the certificate of merger
5 with the office of the Secretary of State.

6 (5) If the surviving entity is an other business entity or
7 a foreign partnership, the full name, type of entity, legal
8 jurisdiction in which the entity was organized and by
9 whose laws its internal affairs are governed, and the
10 address of the principal place of business of the entity.

11 (6) Any other information required to be stated in the
12 certificate of merger by the laws under which each
13 constituent other business entity is organized.

14 (c) A statement of merger or a certificate of merger,
15 as is applicable under subdivision (a) or (b), shall have
16 the effect of the filing of a cancellation for each
17 disappearing partnership of any statement of partnership
18 authority filed by it.

19 16916. (a) Whenever a domestic or foreign
20 partnership or other business entity having any real
21 property in this state merges with another partnership or
22 other business entity pursuant to the laws of this state or
23 of the state or place in which any constituent partnership
24 or constituent other business entity was organized, and
25 the laws of the state or place of organization (including
26 this state) of any disappearing partnership or
27 disappearing other business entity provide substantially
28 that the making and filing of a statement of merger or
29 certificate of merger vests in the surviving partnership or
30 surviving other business entity all the real property of any
31 disappearing partnership and disappearing other
32 business entity, the filing for record in the office of the
33 county record of any county in this state in which any of
34 the real property of the disappearing partnership or
35 disappearing other business entity is located of either (1)
36 a certificate of merger certified by the Secretary of State,
37 or other certificate prescribed by the Secretary of State,
38 or (2) a copy of the statement of merger or certificate of
39 merger, certified by the Secretary of State or an
40 authorized public official of the state or place pursuant to

1 the laws of which the merger is effected, shall evidence
2 record ownership in the surviving partnership or
3 surviving other business entity of all interest of such
4 disappearing partnership or disappearing other business
5 entity in and to the real property located in that county.

6 (b) A filed and, if appropriate, recorded statement of
7 merger, executed and declared to be accurate pursuant
8 to subdivision (c) of Section 16105, stating the name of a
9 partnership or other business entity that is a party to the
10 merger in whose name property was held before the
11 merger and the name of the surviving entity, but not
12 containing all of the other information required by
13 Section 16915, operates with respect to the partnerships
14 or other business entities named to the extent provided
15 in subdivision (a).

16 (c) Recording of the certificate of merger in
17 accordance with subdivision (a) shall create, in favor of
18 bona fide purchasers or encumbrancers for value, a
19 conclusive presumption that the merger was validly
20 completed.

21 16917. This article is not exclusive. Partnerships, other
22 than limited liability partnerships, may be converted or
23 merged in any other manner provided by law.

24 Article 10. Limited Liability Partnerships

25
26
27 16951. For purposes of this chapter, the only types of
28 limited liability partnerships that shall be recognized are
29 a registered limited liability partnership and a foreign
30 limited liability partnership, as defined in Section 16101.
31 No registered limited liability partnership or foreign
32 limited liability partnership may render professional
33 limited liability partnership services in this state except
34 through licensed persons.

35 16952. The name of a registered limited liability
36 partnership shall contain the words "Registered Limited
37 Liability Partnership" or "Limited Liability Partnership"
38 or one of the abbreviations "L.L.P.," "LLP," "R.L.L.P.,"
39 or "RLLP" as the last words or letters of its name.

1 16953. (a) To become a registered limited liability
2 partnership, a partnership, other than a limited
3 partnership, shall file with the Secretary of State a
4 registration, executed by one or more partners
5 authorized to execute a registration, stating (1) the name
6 of the partnership; (2) the address of its principal office;
7 (3) the name and address of the agent for service of
8 process on the limited liability partnership in California;
9 (4) a brief statement of the business in which the
10 partnership engages; (5) any other matters that the
11 partnership determines to include; and (6) that the
12 partnership is registering as a registered limited liability
13 partnership.

14 (b) The registration shall be accompanied by a fee of
15 seventy dollars (\$70).

16 (c) The Secretary of State shall register as a registered
17 limited liability partnership any partnership that submits
18 a completed registration with the required fee.

19 (d) The Secretary of State may cancel the filing of the
20 registration if a check or other remittance accepted in
21 payment of the filing fee is not paid upon presentation.
22 Upon receiving written notification that the item
23 presented for payment has not been honored for
24 payment, the Secretary of State shall give a first written
25 notice of the applicability of this section to the agent for
26 service of process or to the person submitting the
27 instrument. Thereafter, if the amount has not been paid
28 by cashier's check or equivalent, the Secretary of State
29 shall give a second written notice of cancellation and the
30 cancellation shall thereupon be effective. The second
31 notice shall be given 20 days or more after the first notice
32 and 90 days or less after the date of the original filing.

33 (e) A partnership becomes a registered limited
34 liability partnership at the time of the filing of the initial
35 registration with the Secretary of State or at any later date
36 or time specified in the registration and the payment of
37 the fee required by subdivision (b). A partnership
38 continues as a registered limited liability partnership
39 until a notice that it is no longer a registered limited
40 liability partnership has been filed pursuant to

1 subdivision (b) of Section 16954 or, if applicable, until it
2 has been dissolved and finally wound up. The status of a
3 partnership as a registered limited liability partnership
4 and the liability of a partner of the registered limited
5 liability partnership shall not be adversely affected by
6 errors or subsequent changes in the information stated in
7 a registration under subdivision (a) or an amended
8 registration or notice under Section 16954.

9 (f) The fact that a registration or amended registration
10 pursuant to this section is on file with the Secretary of
11 State is notice that the partnership is a registered limited
12 liability partnership and of those other facts contained
13 therein that are required to be set forth in the registration
14 or amended registration.

15 (g) The Secretary of State shall provide a form for a
16 registration under subdivision (a), which shall include
17 the form for confirming compliance with the optional
18 security requirement pursuant to subdivision (c) of
19 Section 16956.

20 (h) A limited liability partnership providing
21 professional limited liability partnership services in this
22 state shall comply with all statutory and administrative
23 registration or filing requirements of the state board,
24 commission, or other agency that prescribes the rules and
25 regulations governing the particular profession in which
26 the partnership proposes to engage, pursuant to the
27 applicable provisions of the Business and Professions
28 Code relating to that profession. No such state board,
29 commission, or other agency shall disclose, unless
30 compelled by a subpoena or other order of a court of
31 competent jurisdiction, any information it receives in the
32 course of evaluating the compliance of a limited liability
33 partnership with applicable statutory and administrative
34 registration or filing requirements, provided that nothing
35 herein shall be construed to prevent a state board,
36 commission, or other agency from disclosing the manner
37 in which the limited liability partnership has complied
38 with the requirements of Section 16956, or the
39 compliance or noncompliance by the limited liability



1 partnership with any other requirements of the state
2 board, commission, or other agency.

3 16954. (a) The registration of a registered limited
4 liability partnership may be amended by an amended
5 registration executed by one or more partners authorized
6 to execute an amended registration and filed with the
7 Secretary of State, as soon as reasonably practical after
8 any information set forth in the registration or previously
9 filed amended registration becomes inaccurate or to add
10 information to the registration or amended registration.

11 (b) If a registered limited liability partnership ceases
12 to be a registered limited liability partnership, it shall file
13 with the Secretary of State a notice, executed by one or
14 more partners authorized to execute the notice, that it is
15 no longer a registered limited liability partnership.

16 (c) An amendment pursuant to subdivision (a) and a
17 notice pursuant to subdivision (b) shall each be
18 accompanied by a fee of thirty dollars (\$30).

19 (d) The Secretary of State shall provide forms for an
20 amended registration under subdivision (a) and a notice
21 under subdivision (b).

22 16955. (a) A domestic partnership, other than a
23 limited partnership, may convert to a registered limited
24 liability by the vote of the partners possessing a majority
25 of the interests of its partners in the current profits of the
26 partnership or by a different vote as may be required in
27 its partnership agreement.

28 (b) When such a conversion takes effect, all of the
29 following apply:

30 (1) All property, real and personal, tangible and
31 intangible, of the converting partnership remains vested
32 in the converted registered limited liability partnership.

33 (2) All debts, obligations, liabilities, and penalties of
34 the converting partnership continue as debts, obligations,
35 liabilities, and penalties of the converted registered
36 limited liability partnership.

37 (3) Any action, suit, or proceeding, civil or criminal,
38 then pending by or against the converting partnership
39 may be continued as if the conversion had not occurred.

(4) To the extent provided in the agreement of conversion and in this chapter, the partners of a partnership shall continue as partners in the converted registered limited liability partnership.

(5) A partnership that has been converted to a registered limited liability partnership pursuant to this chapter is the same person that existed prior to the conversion.

16955.5. A registered limited liability partnership or a partnership converting to a registered limited liability partnership may, by the vote of the partners possessing a majority of the interests of its partners in the current profits of the partnership or by a different vote as may be required in its partnership agreement, elect to be governed by the law in effect prior to adoption of this chapter or by this chapter. The election may be made from time to time and may be revoked by the vote of the partners possessing a majority of the interests of the partners in the current profits of the partnership or by a different vote as may be required in the partnership agreement. Any election not to be governed by this chapter and any revocation of that election shall be set forth in the registration filed by the registered limited liability partnership with the Secretary of State, in an amendment to the registration filed with the Secretary of State, or in an attachment to the registration or amendment. Any such election shall terminate and be of no further force or effect on or after January 1, 1998. After that date the registered limited liability partnership shall be governed by the law as specified in subdivisions (a) and (b) of Section 16111.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1998, deletes or extends that date.

16956. (a) At the time of registration pursuant to Section 16953, in the case of a registered limited liability partnership, and Section 16959, in the case of a foreign limited liability partnership, and at all times during which those partnerships shall transact intrastate business,

1 every registered limited liability partnership and foreign
2 limited liability partnership, as the case may be, shall be
3 required to provide security for claims against it as
4 follows:

5 (1) For claims based upon acts, errors, or omissions
6 arising out of the practice of public accountancy, a
7 registered limited liability partnership or foreign limited
8 liability partnership providing accountancy services shall
9 comply with one, or pursuant to subdivision (b) some
10 combination, of the following:

11 (A) Maintaining a policy or policies of insurance
12 against liability imposed on or against it by law for
13 damages arising out of claims in an amount for each claim
14 of at least one hundred thousand dollars (\$100,000)
15 multiplied by the number of licensed persons rendering
16 professional services on behalf of the partnership;
17 however, the maximum amount of insurance is not
18 required to exceed five million dollars (\$5,000,000) for
19 claims initially asserted in any one calendar year, less
20 amounts paid in defending, settling, or discharging those
21 claims.

22 (B) Maintaining in trust or bank escrow, cash, bank
23 certificates of deposit, United States Treasury obligations,
24 bank letters of credit, or bonds of insurance companies as
25 security for payment of liabilities imposed by law for
26 damages arising out of all claims in an amount of at least
27 one hundred thousand dollars (\$100,000) multiplied by
28 the number of licensed persons rendering professional
29 services; however, the maximum amount of security is
30 not required to exceed five million dollars (\$5,000,000) for
31 claims initially asserted in any one calendar year, less
32 amounts paid in defending, settling, or discharging those
33 claims.

34 (C) Confirming, pursuant to the procedure in
35 subdivision (c), that, as of the most recently completed
36 fiscal year of the partnership, it had a net worth equal to
37 or exceeding ten million dollars (\$10,000,000).

38 (2) For claims based upon acts, errors, or omissions
39 arising out of the practice of law, a registered limited
40 liability partnership or foreign limited liability

1 partnership providing legal services shall comply with
2 one, or pursuant to subdivision (b) some combination, of
3 the following:

4 (A) Each registered limited liability partnership or
5 foreign limited liability partnership providing legal
6 services shall maintain a policy or policies of insurance
7 against liability imposed on or against it by law for
8 damages arising out of claims in an amount for each claim
9 of at least one hundred thousand dollars (\$100,000)
10 multiplied by the number of licensed persons rendering
11 professional services on behalf of the partnership;
12 however, the maximum amount of insurance is not
13 required to exceed seven million five hundred thousand
14 dollars (\$7,500,000) for claims initially asserted in any one
15 calendar year, less amounts paid in defending, settling, or
16 discharging those claims.

17 (B) Each registered limited liability partnership or
18 foreign limited liability partnership providing legal
19 services shall maintain in trust or bank escrow, cash, bank
20 certificates of deposit, United States Treasury obligations,
21 bank letters of credit, or bonds of insurance companies as
22 security for payment of liabilities imposed by law for
23 damages arising out of all claims in an amount of at least
24 one hundred thousand dollars (\$100,000) multiplied by
25 the number of licensed persons rendering professional
26 services; however, the maximum amount of security is
27 not required to exceed seven million five hundred
28 thousand dollars (\$7,500,000) for claims initially asserted
29 in any one calendar year, less amounts paid in defending,
30 settling, or discharging those claims.

31 (C) Each partner of a registered limited liability
32 partnership or foreign limited liability partnership
33 providing legal services, by virtue of that person's status
34 as a partner, thereby automatically guarantees payment
35 of the difference between the maximum amount of
36 security required for the partnership by paragraph (2) of
37 this subdivision and the security otherwise provided in
38 accordance with the provisions of subparagraphs (A) and
39 (B) of paragraph (2) of this subdivision, provided that the
40 aggregate amount paid by all partners under these

1 guarantees shall not exceed the difference. Withdrawal
2 by a partner shall not affect the rights or obligations of
3 such partner arising prior to withdrawal. Nothing
4 contained in this subparagraph shall affect or impair the
5 rights or obligations of the partners among themselves, or
6 the partnership, including, but not limited to, rights of
7 contribution, subrogation, or indemnification.

8 (b) For purposes of satisfying the security
9 requirements of this section, a registered limited liability
10 partnership or foreign limited liability partnership may
11 aggregate the security provided by it pursuant to
12 subparagraphs (A), (B), and (C) of paragraph (1) of
13 subdivision (a) or subparagraphs (A), (B), and (C) of
14 paragraph (2) of subdivision (a), as the case may be. Any
15 registered limited liability partnership or foreign limited
16 liability partnership intending to comply with the
17 alternative security provisions set forth in subparagraph
18 (C) of paragraph (1) of subdivision (a) shall furnish the
19 following information to the Secretary of State's office, in
20 the manner prescribed in, and accompanied by all
21 information required by, the applicable section:

22
23 TRANSMITTAL FORM FOR EVIDENCING COMPLIANCE
24 WITH SECTION 16956(a)(1)(C) OF THE CALIFORNIA
25 CORPORATIONS CODE
26

27 The undersigned hereby confirms the following:

- 28
29 1. _____
30 Name of registered or foreign limited liability partnership
31
32 2. _____
33 Jurisdiction where partnership is organized
34

3. _____
Address of principal office

4. The registered or foreign limited liability partnership renders accountancy services and chooses to satisfy the requirements of Section 16956 by confirming, pursuant to Sections 16956(a)(1)(C) and 16956(c), that, as of the most recently completed fiscal year, the partnership had a net worth equal to or exceeding ten million dollars (\$10,000,000).

5. _____
Title of authorized person executing this form

6. _____
Signature of authorized person executing this form

(c) Pursuant to subparagraph (C) of paragraph (1) of subdivision (a), a registered limited liability partnership or foreign limited liability partnership rendering accountancy services may satisfy the requirements of this section by confirming that, as of the last day of its most recently completed fiscal year, it had a net worth equal to or exceeding ten million dollars (\$10,000,000). In order to comply with this alternative method of meeting the requirements established in this section, a registered limited liability partnership or foreign limited liability partnership shall file an annual confirmation with the Secretary of State's office, signed by an authorized member of the registered limited liability partnership or foreign limited liability partnership, accompanied by a transmittal form as prescribed by subdivision (b). In order to be current in a given year, the partnership form for confirming compliance with the optional security requirement shall be on file within four months of the completion of the fiscal year and, upon being filed, shall constitute full compliance with the financial security requirements for purposes of this section as of the beginning of the fiscal year. A confirmation filed during any particular fiscal year shall continue to be effective for the first four months of the next succeeding fiscal year.

(d) Neither the existence of the requirements of subdivision (a) nor the extent of the registered limited liability partnership's or foreign limited liability partnership's compliance with the alternative requirements in this section shall be admissible in court or in any way be made known to a jury or other trier of fact in determining an issue of liability for, or to the extent of, the damages in question.

(e) Notwithstanding any other provision of this section, if a registered limited liability partnership is otherwise in compliance with the terms of this section at the time that a bankruptcy or other insolvency proceeding is commenced with respect to the registered limited liability partnership, it shall be deemed to be in compliance with this section during the pendency of the proceeding. A registered limited liability partnership that has been the subject of a proceeding and that conducts business after the proceeding ends shall thereafter comply with paragraph (1) or (2) of subdivision (a), in order to obtain the limitations on liability afforded by subdivision (c) of Section 16306.

16957. (a) No distribution shall be made by a registered limited liability partnership if, after giving effect to the distribution:

(1) The registered limited liability partnership would not be able to pay its debts as they become due in the usual course of business.

(2) The registered limited liability partnership's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the registered limited liability partnership were to be dissolved at the time of the distribution, to satisfy the preferential rights of other partners upon dissolution that are superior to the rights of the partners receiving the distribution.

(b) A cause of action with respect to an obligation to return a distribution is extinguished unless the action is brought within four years after the distribution is made.

(c) A distribution for purposes of this section means the transfer of money or property by a registered limited liability partnership to its partners without consideration.

1 16958. (a) (1) The laws of the jurisdiction under
2 which a foreign limited liability partnership is organized
3 shall govern its organization and internal affairs and the
4 liability and authority of its partners, subject to
5 compliance with Section 16956, and (2) a foreign limited
6 liability partnership may not be denied registration by
7 reason of any difference between those laws and the laws
8 of this state.

9 (b) The name of a foreign limited liability partnership
10 transacting intrastate business in this state shall contain
11 the words "Registered Limited Liability Partnership" or
12 "Limited Liability Partnership" or one of the
13 abbreviations "L.L.P.," "LLP," "R.L.L.P.," or "RLLP," or
14 such other similar words or abbreviations as may be
15 required or authorized by the laws of the jurisdiction of
16 formation of the foreign limited liability partnership, as
17 the last words or letters of its name.

18 16959. (a) (1) Before transacting intrastate business
19 in this state, a foreign limited liability partnership shall
20 comply with all statutory and administrative registration
21 or filing requirements of the state board, commission, or
22 agency that prescribes the rules and regulations
23 governing a particular profession in which the
24 partnership proposes to be engaged, pursuant to the
25 applicable provisions of the Business and Professions
26 Code relating to the profession or applicable rules
27 adopted by the governing board. A foreign limited
28 liability partnership that transacts intrastate business in
29 this state shall within 30 days after the effective date of the
30 act enacting this section or the date on which the foreign
31 limited liability partnership first transacts intrastate
32 business in this state, whichever is later, register with the
33 Secretary of State by submitting to the Secretary of State
34 an application for registration as a foreign limited liability
35 partnership, signed by a person with authority to do so
36 under the laws of the jurisdiction of formation of the
37 foreign limited liability partnership, stating the name of
38 the partnership, the address of its principal office, the
39 name and address of its agent for service of process in this
40 state, a brief statement of the business in which the

1 partnership engages, and any other matters that the
2 partnership determines to include.

3 (2) Annexed to the application for registration shall be
4 a certificate from an authorized public official of the
5 foreign limited liability partnership's jurisdiction of
6 organization to the effect that the foreign limited liability
7 partnership is in good standing in that jurisdiction, if the
8 laws of that jurisdiction permit the issuance of those
9 certificates, or, in the alternative, a statement by the
10 foreign limited liability partnership that the laws of its
11 jurisdiction of organization do not permit the issuance of
12 those certificates.

13 (b) The registration shall be accompanied by a fee of
14 seventy dollars (\$70).

15 (c) The Secretary of State shall register as a foreign
16 limited liability partnership any partnership that submits
17 a completed application for registration with the
18 required fee.

19 (d) The Secretary of State may cancel the filing of the
20 registration if a check or other remittance accepted in
21 payment of the filing fee is not paid upon presentation.
22 Upon receiving written notification that the item
23 presented for payment has not been honored for
24 payment, the Secretary of State shall give a first written
25 notice of the applicability of this section to the agent for
26 service of process or to the person submitting the
27 instrument. Thereafter, if the amount has not been paid
28 by cashier's check or equivalent, the Secretary of State
29 shall give a second written notice of cancellation and the
30 cancellation shall thereupon be effective. The second
31 notice shall be given 20 days or more after the first notice
32 and 90 days or less after the original filing.

33 (e) A partnership becomes registered as a foreign
34 limited liability partnership at the time of the filing of the
35 initial registration with the Secretary of State or at any
36 later date or time specified in the registration and the
37 payment of the fee required by subdivision (b). A
38 partnership continues to be registered as a foreign
39 limited liability partnership until a notice that it is no
40 longer so registered as a limited liability partnership has

1 been filed pursuant to Section 16960 or, if applicable, once
2 it has been dissolved and finally wound up. The status of
3 a partnership registered as a foreign limited liability
4 partnership and the liability of a partner of that foreign
5 limited liability partnership shall not be adversely
6 affected by errors or subsequent changes in the
7 information stated in an application for registration
8 under subdivision (a) or an amended registration or
9 notice under Section 16960.

10 (f) The fact that a registration or amended registration
11 pursuant to Section 16960 is on file with the Secretary of
12 State is notice that the partnership is a foreign limited
13 liability partnership and of those other facts contained
14 therein that are required to be set forth in the registration
15 or amended registration.

16 (g) The Secretary of State shall provide a form for a
17 registration under subdivision (a), which shall include
18 the form for confirming compliance with the optional
19 security requirement pursuant to subdivision (c) of
20 Section 16956.

21 (h) A foreign limited liability partnership transacting
22 intrastate business in this state shall not maintain any
23 action, suit, or proceeding in any court of this state until
24 it has registered in this state pursuant to this section.

25 (i) Any foreign limited liability partnership that
26 transacts intrastate business in this state without
27 registration is subject to a penalty of twenty dollars (\$20)
28 for each day that unauthorized intrastate business is
29 transacted, up to a maximum of ten thousand dollars
30 (\$10,000).

31 (j) A partner of a foreign limited liability partnership
32 is not liable for the debts or obligations of the foreign
33 limited liability partnership solely by reason of its having
34 transacted business in this state without registration.

35 (k) A foreign limited liability partnership, transacting
36 business in this state without registration, appoints the
37 Secretary of State as its agent for service of process with
38 respect to causes of action arising out of the transaction
39 of business in this state.



1 (l) “Transact intrastate business” as used in this
2 section means to repeatedly and successively provide
3 professional limited liability partnership services in this
4 state, other than in interstate or foreign commerce.

5 (m) Without excluding other activities that may not
6 be considered to be transacting intrastate business, a
7 foreign limited liability partnership shall not be
8 considered to be transacting intrastate business merely
9 because its subsidiary or affiliate transacts intrastate
10 business, or merely because of its status as any one or
11 more of the following:

12 (1) A shareholder of a domestic corporation.

13 (2) A shareholder of a foreign corporation transacting
14 intrastate business.

15 (3) A limited partner of a foreign limited partnership
16 transacting intrastate business.

17 (4) A limited partner of a domestic limited
18 partnership.

19 (5) A member or manager of a foreign limited liability
20 company transacting intrastate business.

21 (6) A member or manager of a domestic limited
22 liability company.

23 (n) Without excluding other activities that may not be
24 considered to be transacting intrastate business, a foreign
25 limited liability partnership shall not be considered to be
26 transacting intrastate business within the meaning of this
27 subdivision solely by reason of carrying on in this state any
28 one or more of the following activities:

29 (1) Maintaining or defending any action or suit or any
30 administrative or arbitration proceeding, or effecting the
31 settlement thereof or the settlement of claims or disputes.

32 (2) Holding meetings of its partners or carrying on any
33 other activities concerning its internal affairs.

34 (3) Maintaining bank accounts.

35 (4) Maintaining offices or agencies for the transfer,
36 exchange, and registration of the foreign limited liability
37 partnership’s securities or maintaining trustees or
38 depositories with respect to those securities.

39 (5) Effecting sales through independent contractors.

1 (6) Soliciting or procuring orders, whether by mail or
2 through employees or agents or otherwise, where those
3 orders require acceptance without this state before
4 becoming binding contracts.

5 (7) Creating or acquiring evidences of debt or
6 mortgages, liens, or security interest in real or personal
7 property.

8 (8) Securing or collecting debts or enforcing
9 mortgages and security interests in property securing the
10 debts.

11 (9) Conducting an isolated transaction that is
12 completed within 180 days and not in the course of a
13 number of repeated transactions of a like nature.

14 (o) A person shall not be deemed to be transacting
15 intrastate business in this state merely because of its status
16 as a partner of a registered limited liability partnership or
17 a foreign limited liability company whether or not
18 registered to transact intrastate business in this state.

19 (p) The Attorney General may bring an action to
20 restrain a foreign limited liability partnership from
21 transacting intrastate business in this state in violation of
22 this chapter.

23 (q) Nothing in this section is intended to, or shall,
24 augment, diminish, or otherwise alter existing provisions
25 of law, statutes, or court rules relating to services by a
26 California public accountant or California attorney in
27 another jurisdiction, or services by an out-of-state public
28 accountant or out-of-state attorney in California.

29 16960. (a) The registration of a foreign limited
30 partnership may be amended by an amended registration
31 executed by one or more partners authorized to execute
32 an amended registration and filed with the Secretary of
33 State, as soon as reasonably practical after any
34 information set forth in the registration or previously
35 filed amended registration becomes inaccurate, to add
36 information to the registration or amended registration
37 or to withdraw its registration as a foreign limited liability
38 partnership.

39 (b) If a foreign limited partnership ceases to be a
40 limited liability partnership, it shall file with the Secretary

1 of State a notice, executed by one or more partners
2 authorized to execute the notice, that it is no longer a
3 foreign limited liability partnership.

4 (c) A foreign limited liability partnership that is, but
5 is no longer required to be, registered under Section
6 16959 may withdraw its registration by filing a notice with
7 the Secretary of State, executed by one or more partners
8 authorized to execute the notice.

9 (d) The Secretary of State shall provide forms for an
10 amended registration under subdivision (a) and notices
11 under subdivisions (b) and (c).

12 (e) The filing of amended registration forms pursuant
13 to subdivision (a) and a notice pursuant to subdivision (b)
14 or (c) shall each be accompanied by a fee of thirty dollars
15 (\$30).

16 16961. The filing of a registration with the Secretary
17 of State under Section 16953 or 16959 shall make it
18 unnecessary for all purposes for the registered limited
19 liability partnership or foreign limited liability
20 partnership to make any of the filings referred to in
21 Chapter 5 (commencing with Section 17900) of Part 3 of
22 Division 7 of the Business and Professions Code.

23 16962. (a) Each registered limited liability
24 partnership whose principal office is not in this state and
25 each foreign limited liability partnership registered
26 under Section 16959 shall designate as its agent for service
27 of process any natural person or a domestic or foreign
28 corporation entitled to be designated as agent for the
29 service of process pursuant to Section 1505.

30 (b) In addition to service that may be made as
31 provided in Section 416.40 of the Code of Civil Procedure,
32 delivery by hand of a copy of any process against a
33 registered limited liability partnership or foreign limited
34 liability partnership registered under Section 16959; (1)
35 to any natural person designated by it as agent or (2), if
36 a corporate agent has been designated, to any person
37 named in the latest certificate of the corporate agent filed
38 pursuant to Section 1505 at the office of that corporate
39 agent shall constitute valid service on the registered

1 limited liability partnership or foreign limited liability
2 partnership.

3 (c) If an agent for the purpose of service of process has
4 resigned and has not been replaced or if the agent
5 designated cannot with reasonable diligence be found at
6 the address designated for personally delivering the
7 process, or if no agent has been designated, and it is shown
8 by affidavit to the satisfaction of the court that process
9 against a registered limited liability partnership or
10 foreign limited liability partnership required to be
11 registered under Section 16959 cannot be served with
12 reasonable diligence upon the designated agent by hand
13 in the manner provided in Section 415.10, subdivision (a)
14 of Section 415.20, or subdivision (a) of Section 415.30 of
15 the Code of Civil Procedure or upon the registered
16 limited liability partnership or foreign limited liability
17 partnership in the manner provided in Section 416.40 of
18 the Code of Civil Procedure, the court may make an
19 order that the service be made upon the registered
20 limited liability partnership or foreign limited liability
21 partnership by delivering by hand to the Secretary of
22 State, or to any person employed in the Secretary of
23 State's office in the capacity of assistant to deputy, one
24 copy of the process for each defendant to be served,
25 together with a copy of the order authorizing that service.
26 If the court makes that order, the Secretary of State who
27 receives the process, or the person employed in the
28 Secretary of State's office in the capacity of assistant or
29 deputy who receives the process, is required to accept
30 such process. A fee in the amount of fifty dollars (\$50)
31 shall be paid to the Secretary of State for the use of the
32 state upon receipt of the process. Service in this manner
33 shall be deemed complete on the 10th day after delivery
34 of the process to the Secretary of State.

35 (d) Upon the receipt of the copy of process and the fee
36 therefor, the Secretary of State shall give notice of the
37 service of process to the registered limited liability
38 partnership or foreign limited liability partnership
39 registered under Section 16959 at its principal executive
40 office, by forwarding to that office, by registered mail

1 with request for return receipt, the copy of the process or,
2 if the records of the Secretary of State do not disclose an
3 address for that principal executive office, by forwarding
4 the copy in the same manner to the last designated agent
5 for service of process who has not resigned. If the agent
6 for service of process has resigned and has not been
7 replaced and the records of the Secretary of State do not
8 disclose an address for its principal executive office, no
9 action need be taken by the Secretary of State.

10 (e) The Secretary of State shall keep a record of all
11 process served upon the Secretary of State under this
12 section and shall record therein the time of service and
13 the Secretary of State's action with reference thereto.
14 The certificate of the Secretary of State, under the
15 Secretary of State's official seal, certifying to the receipt
16 of process, the giving of notice thereof to the registered
17 limited liability partnership or foreign limited liability
18 partnership, and the forwarding of the process pursuant
19 to this section shall be competent and prima facie
20 evidence of the matters stated therein.

21 (f) The court order pursuant to subdivision (c) that
22 service of process be made upon the registered limited
23 liability partnership or foreign limited liability
24 partnership by delivery to the Secretary of State may be
25 a court order of a court of another state, or of any federal
26 court, if the suit, action, or proceeding has been filed in
27 that court.

28 SEC. 3. Section 3940 of the Public Resources Code is
29 amended to read:

30 3940. A mining partnership exists when two or more
31 persons who own or acquire a mining claim for the
32 purpose of working it and extracting the mineral
33 therefrom actually engage in working the claim. To the
34 extent not inconsistent with this chapter, mining
35 partnerships shall be governed in the same manner as
36 other general partnerships would be governed pursuant
37 to Section 16111 of the Corporations Code, by the
38 Uniform Partnership Act (Chapter 1 (commencing with
39 Section 15001) of Title 2 of the Corporations Code), or the
40 Uniform Partnership Act of 1994 (Chapter 5

1 (commencing with Section 16100) of Title 2 of the
2 Corporations Code).

3 SEC. 4. Section 6829 of the Revenue and Taxation
4 Code is amended to read:

5 6829. (a) Notwithstanding Section 16306, 16307,
6 17101, 17158, 17355, 17450, or 17456 of the Corporations
7 Code, upon termination, dissolution, or abandonment of
8 a partnership, a registered or foreign limited liability
9 partnership or a domestic or foreign corporate or limited
10 liability company business, any officer, member,
11 manager, partner, or other person having control or
12 supervision of, or who is charged with the responsibility
13 for the filing of returns or the payment of tax, or who is
14 under a duty to act for the corporation, partnership,
15 limited liability partnership, or limited liability company
16 in complying with any requirement of this part, shall be
17 personally liable for any unpaid taxes and interest and
18 penalties on those taxes, if the officer, member, manager,
19 or other person willfully fails to pay or to cause to be paid
20 any taxes due from the corporation, partnership, limited
21 liability partnership, or limited liability company
22 pursuant to this part.

23 (b) The officer, member, manager, partner, or other
24 person shall be liable only for taxes that became due
25 during the period he or she had the control, supervision,
26 responsibility, or duty to act for the corporation,
27 partnership, limited liability partnership, or limited
28 liability company described in subdivision (a), plus
29 interest and penalties on those taxes.

30 (c) Personal liability may be imposed pursuant to this
31 section, only if the board can establish that the
32 corporation, partnership, limited liability partnership, or
33 limited liability company had included tax
34 reimbursement in the selling price of, or added tax
35 reimbursement to the selling price of, tangible personal
36 property sold in the conduct of its business, or when it can
37 be established that the corporation, partnership, limited
38 liability partnership, or limited liability company
39 consumed tangible personal property and failed to pay
40 the tax to the seller or has included use tax on the billing

1 and collected the use tax or has issued a receipt for the use
2 tax and failed to report and pay use tax.

3 (d) For purposes of this section “willfully fails to pay
4 or to cause to be paid” means that the failure was the
5 result of an intentional, conscious, and voluntary course
6 of action.

7 (e) The sum due for the liability under this section
8 may be collected by determination and collection in the
9 manner provided in Chapter 5 (commencing with
10 Section 6451) and Chapter 6 (commencing with Section
11 6701).

12 SEC. 4.5. Section 6831 is added to the Revenue and
13 Taxation Code, to read:

14 6831. The board shall not be subject to subdivisions
15 (c) and (d) of *Section 16307* of the Corporations Code
16 unless, at the time of application for a seller’s permit, the
17 applicant furnishes to the board a written partnership
18 agreement that provides that all business assets shall be
19 held in the name of the partnership.

20 SEC. 5. Section 9032 is added to the Revenue and
21 Taxation Code, to read:

22 9032. The board shall not be subject to subdivisions
23 (c) and (d) of Section 16307 of the Corporations Code
24 unless, at the time of application for or issuance of a
25 permit, license, or registration number under this part,
26 the applicant furnishes to the board a written partnership
27 agreement that provides that all business assets shall be
28 held in the name of the partnership.

29 SEC. 6. Section 23097 of the Revenue and Taxation
30 Code is amended to read:

31 23097. (a) For each taxable year beginning on or
32 after January 1, 1995, every limited liability partnership
33 doing business in this state (as defined in Section 23101)
34 and required to file a return under Section 18633 shall pay
35 annually to the Franchise Tax Board a tax for the privilege
36 of doing business in this state in an amount equal to the
37 applicable amount specified in paragraph (1) of
38 subdivision (d) of Section 23153 for the taxable year.

39 (b) In addition to any limited liability partnership that
40 is doing business in this state and therefore is subject to

1 the tax imposed by subdivision (a), for each taxable year
2 beginning on or after January 1, 1995, every registered
3 limited liability partnership that has registered with the
4 Secretary of State pursuant to Section 15049 or 16953 of
5 the Corporations Code and every foreign limited liability
6 partnership that has registered with the Secretary of
7 State pursuant to Section 15055 or 16959 of the
8 Corporations Code shall pay annually the tax prescribed
9 in subdivision (a). The tax shall be paid for each taxable
10 year, or part thereof, until any of the following occurs:

11 (1) A notice of cessation is filed with the Secretary of
12 State pursuant to subdivision (b) of Section 15050,
13 subdivision (b) of Section 16954, subdivision (b) of
14 Section 15056, or subdivision ~~(a)~~ (b) of Section 16960, of
15 the Corporations Code.

16 (2) A foreign limited liability partnership withdraws
17 its registration pursuant to subdivision (a) of Section
18 15056, or subdivision (a) of Section 16960, of the
19 Corporations Code.

20 (3) The registered limited liability partnership or
21 foreign limited liability partnership has been dissolved
22 and finally wound up.

23 (c) The tax assessed under this section shall be due and
24 payable on the date the return is required to be filed
25 under Section 18633.

26 SEC. 7. Section 30353 is added to the Revenue and
27 Taxation Code, to read:

28 30353. The board shall not be subject to subdivisions
29 (c) and (d) of Section 16307 of the Corporations Code
30 unless, at the time of application for or issuance of a
31 permit, license, or registration number under this part,
32 the applicant furnishes to the board a written partnership
33 agreement that provides that all business assets shall be
34 held in the name of the partnership.

35 SEC. 8. Section 32388 is added to the Revenue and
36 Taxation Code, to read:

37 32388. The board shall not be subject to subdivisions
38 (c) and (d) of Section 16307 of the Corporations Code
39 unless, at the time of application for or issuance of a
40 permit, license, or registration number under this part,

1 the applicant furnishes to the board a written partnership
2 agreement that provides that all business assets shall be
3 held in the name of the partnership.

4 SEC. 9. Section 38576 is added to the Revenue and
5 Taxation Code, to read:

6 38576. The board shall not be subject to subdivisions
7 (c) and (d) of Section 16307 of the Corporations Code
8 unless, at the time of registration, the timber owner
9 furnishes the board a written partnership agreement that
10 provides that all business assets shall be held in the name
11 of the partnership.

12 SEC. 10. Article 4 (commencing with Section 40166)
13 is added to Chapter 6 of Part 19 of Division 2 of the
14 Revenue and Taxation Code, to read:

15
16 Article 4. Miscellaneous
17

18 40166. The board shall not be subject to subdivisions
19 (c) and (d) of Section 16307 of the Corporations Code
20 unless, at the time of application for or issuance of a
21 permit, license, or registration number under this part,
22 the applicant furnishes to the board a written partnership
23 agreement that provides that all business assets shall be
24 held in the name of the partnership.

25 SEC. 11. Article 4 (commencing with Section
26 41127.5) is added to Chapter 6 of Part 20 of Division 2 of
27 the Revenue and Taxation Code, to read:

28
29 Article 4. Miscellaneous
30

31 41127.5. The board shall not be subject to subdivisions
32 (c) and (d) of Section 16307 of the Corporations Code
33 unless, at the time of application for or issuance of a
34 permit, license, or registration number under this part,
35 the applicant furnishes to the board a written partnership
36 agreement that provides that all business assets shall be
37 held in the name of the partnership.

38 SEC. 12. Section 43447 is added to the Revenue and
39 Taxation Code, to read:

1 43447. The board shall not be subject to subdivisions
2 (c) and (d) of Section 16307 of the Corporations Code
3 unless, at the time of application for or issuance of a
4 permit, license, or registration number under this part,
5 the applicant furnishes to the board a written partnership
6 agreement that provides that all business assets shall be
7 held in the name of the partnership.

8 SEC. 13. Section 45608 is added to the Revenue and
9 Taxation Code, to read:

10 45608. The board shall not be subject to subdivisions
11 (c) and (d) of Section 16307 of the Corporations Code
12 unless, at the time of application for or issuance of a
13 permit, license, or registration number under this part,
14 the applicant furnishes to the board a written partnership
15 agreement that provides that all business assets shall be
16 held in the name of the partnership.

17 SEC. 14. Section 46463 is added to the Revenue and
18 Taxation Code, to read:

19 46463. The board shall not be subject to subdivisions
20 (c) and (d) of Section 16307 of the Corporations Code
21 unless, at the time of application for or issuance of a
22 permit, license, or registration number under this part,
23 the applicant furnishes to the board a written partnership
24 agreement that provides that all business assets shall be
25 held in the name of the partnership.

26 SEC. 15. Section 50138.5 is added to the Revenue and
27 Taxation Code, to read:

28 50138.5. The board shall not be subject to subdivisions
29 (c) and (d) of Section 16307 of the Corporations Code
30 unless, at the time of application for or issuance of a
31 permit, license, or registration number under this part,
32 the applicant furnishes to the board a written partnership
33 agreement that provides that all business assets shall be
34 held in the name of the partnership.

35 SEC. 16. Section 55208 is added to the Revenue and
36 Taxation Code, to read:

37 55208. The board shall not be subject to subdivisions
38 (c) and (d) of Section 16307 of the Corporations Code
39 unless, at the time of application for or issuance of a
40 permit, license, or registration number under this part,

1 the applicant furnishes to the board a written partnership
2 agreement that provides that all business assets shall be
3 held in the name of the partnership.

4 SEC. 17. Section 60492 is added to the Revenue and
5 Taxation Code, to read:

6 60492. The board shall not be subject to subdivisions
7 (c) and (d) of Section 16307 of the Corporations Code
8 unless, at the time of application for or issuance of a
9 permit, license, or registration number under this part,
10 the applicant furnishes to the board a written partnership
11 agreement that provides that all business assets shall be
12 held in the name of the partnership.

13 SEC. 18. Section 1.2 of this act shall become operative
14 on January 1, 1999.

